THE

ORIGIN HISTORY AND MANAGEMENT

OF THE

UNIVERSITY OF KING'S COLLEGE

TORONTO

Tros Tyriusve mihi nullo discrimine agetur

What we want is Liberty—Absolute Liberty—Just and True Liberty—
Equal and Impartial Liberty."—Locke.

TORONTO
PRINTED BY GEORGE BROWN 140, KING STREET
MDCCCXLIV

2.697.
174/1440

TO
THE HONOURABLE ROBERT BALDWIN
LATE ATTORNEY-GENERAL FOR UPPER CANADA
WHOSE BILL
INTRODUCED DURING THE LAST SESSION OF PARLIAMENT,
FOR OPENING THE UNIVERSITY OF KING'S COLLEGE
TO
ALL CLASSES AND DENOMINATIONS OF HER MAJESTY'S CANADIAN SUBJECTS,
ENTITLES HIM TO THE GRATITUDE
OF EVERY ENLIGHTENED FRIEND
OF
CIVIL AND RELIGIOUS FREEDOM
THE FOLLOWING PAPERS
ARE
RESPECTFULLY INSCRIBED

INTRODUCTION.

Much as the public mind has been aroused to the urgent necessity of a thorough University Reform, it is questionable whether the country is yet in possession of all the facts upon which that necessity is based. It must be admitted that the cry of "vested rights," invigorated, as it has been, by the legal hypothesis of an ingenious Counsel, has had some effect in diverting attention from the circumstances which sap that hypothesis to the foundation. But that the High Church party should have had the sole benefit of this cry, is more remarkable than that they should have made every use of it. For, if it can be shown that the endowment of King's College was originally granted for the purposes of general education—that the intention of the grant was to establish a public institution—and that the University has been perverted to a private and sectarian purpose, by a party at no period friendly to popular enlightenment,—there must be every reason to complain that the "vested rights" of the people have been grossly infringed—and that the monopoly of the Episcopal Church has been fraudulently acquired, and is unjustly maintained. The question at present before the country is not, whether the exclusive claims of that Church, originally founded on justice, are to be invaded by reason of a public necessity, and whether rights, honestly acquired, are to succumb to purposes of general utility;—but the true question at issue, is simply, whether the University, as a great national institution—endowed with funds for general education—is to be opened to all classes and persuasions of her Majesty's Canadian subjects—or whether it is to be a monopoly, for the exclusive benefit and advantage of the members of the Episcopal Church.

Such is the principle involved in the contest which is now going on—a contest which ought never to have been excited, and which would have been safely and wisely averted, if just and reasonable claims on the one side had been met in a spirit of enlightened justice and toleration on the other. In urging these claims, the people have no desire to injure the Episcopal Church. Many of them are proud to acknowledge their submission to its doctrine, its discipline, and government, and by some of its warmest adherents, is the cause of justice and toleration nobly maintained. Nor do the other denominations ask any superiority or exclusive enjoyment—all that they desire is, equality of privileges in this seat of learning and science; and in pressing this equitable claim they only seek to have the University restored to the purposes of its original foundation, and to have it adapted to the character and spirit of the present age, which abjures monopolies and exclusions.

It cannot be denied, that recent events have given energy and direction to these claims,—and that the reckless conduct of the monopolists has invested with an iniquitous character the demand to have the monopoly broken up. The fact that the interests of the University have been sacrificed to schemes of personal ambition and private aggrandizement, and that a noble institution munificently endowed, has been plunged into irretrievable difficulties, by a system of gross and glaring mismanagement—has excited a deep and general feeling of indignation throughout the province in which the members of the Episcopal Church have largely participated.

It has now become too obvious, that the people must have some other security for their chartered rights than the parchment skins on which they are recorded—and that Legislative enactments are of little value, if their execution is to be entrusted to individuals, whose object and interest are to undermine the principles upon which they are framed. It would be a mere mockery to offer any measure of delusive liberality, by which the governing power of the University was not completely changed, and by which those who have violated faith with the people, and with the crown, should not be made to suffer the consequences of their derelictions.

Before King's College can exhibit a vigorous and healthy advancement, and produce the fruits of a complete and generous education, it must at once be freed from the system of despicable proselytism, which at present both fetters its energies and degrades the morals of its youth, and relieved of the management of those individuals, who have so grossly perverted the objects of the institution, and who are now clinging with convulsive tenacity to the power which they have iniquitously abused.

There is every reason to believe that an attempt will be made by the High Church party to defeat the principle of the University Bill, by bribing the leading men into silence. But to any such unprincipled scheme which would sacrifice the permanent interests of the country to the temporary and pecuniary advantage of particular sects, the people of Canada will assuredly offer the most uncompromising opposition. Full, free and unreserved participation in the benefits to be derived from the University, is the sacred right of every individual in this country, to whatever sect he may belong; and if any man shall be found base enough to sell the civil and religious privileges of the Canadian people, which are the property neither of sect nor of party, for sectarian or personal advantage, his perfidy will be visited with the execrations of the country and of posterity, and with the contempt of the party who may purchase his degradation.

The great feature of the University Bill was its avowed hostility to all sectarian monopoly. Its object was to make the University a general and NATIONAL INSTITUTION—an Institution in which the youth of all classes and persuasions might freely mingle, and where, by being combined in their amusements as well as in their studies and pursuits, they might be permanently united in the bonds of friendship and good feeling;—an Institution in which might be nurtured and developed those generous feelings and affections which would mitigate the jarring animosities that the conflict of opposite interests might afterwards engender, and which would divest future opposition of its acrimony and its bitterness.

It is time that this great subject should be viewed apart from all sectarian motives, and that it should be contemplated exclusively in its important bearing on the destinies of this Province. In a country so divided by religious opinions, and where the influence and intelligence of the different sects are so nearly balanced, it is of the highest importance that its public institutions should be sufficiently comprehensive to permit of, and to encourage free and unreserved intercourse between the classes. And where can such intercourse and communion be so happily and so completely effected as within the walls of a University where all denominations of Christians would mingle and be educated under one general system; and where, by associating together at the most interesting season of life, they might lay the foundations of future intercourse and mutual good-will, so essential to the well-being of all society, and which are by no means incompatible with differences either in religious faith or political opinion? By such an amalgamation of classes in the combined education of the Canadian youth, we might expect to see the asperities of religious and political differences softened down—the lines of division gradually obliterated—prejudices abated and adverse feelings reconciled.

The grasping conduct of the High Church party has indeed perplexed this subject with considerations extrinsic of its own merits, and on none of the important interests of this country has the baneful influence of that party operated to a more injurious degree, than on the progress of general Education and the successful establishment of the University. It is abundantly evident that if King's College be permitted to retain the sectarian and exclusive character which has been falsely imposed on it, and if the other denominations are excluded from a participation in its benefits—whether by their own self-abasement or by the powerful opposition of unscrupulous foes—the various sects will either renew their exertions to obtain the same benefits in other establishments instituted in conformity with their own opinions, or large numbers of the youth of the Province will be driven for their education to foreign Seminaries. But will the country submit to a compromise which will involve the necessity and danger of a separate education for each section of its varied population, which will array them in a hostile attitude one against another—each thinking the other an individual with whom it would be unsafe to associate—the one claiming a superiority to which he is not entitled, the other struggling and resenting under an undeserved inferiority? And has the country generally no interest in seeing that its youth are educated within its own territories, and in taking care that their instruction is not such as may tend to alienate from its institutions those in whose individual genius and integrity it may repose confidence in the hour of difficulty and danger?

Let not the party who would offer such a compromise imagine that the acceptance of their unprincipled bribes by any of the sectarian leaders would set this question finally at rest; for even should the present generation basely barter its rights, posterity will rise to reclaim them; and while a remnant of the endowment is perverted to a sectarian purpose, the struggle for equality will be perseveringly maintained. The purchase of temporary repose would be a transient delusion;

repeated demands would be made upon the endowment—each successive demand with as much justice as the first, and the Institution would only be relieved from assaults when participation in its benefits was no longer an object of desire.

No compromise—no fraudulent settlement, nor base bartering of rights, will terminate the struggle for principle, or diminish the resistance to a sectarian ascendancy. That resistance will not cease till the portals of the University shall be thrown open, and all classes and denominations shall, in the words of Locke, have "LIBERTY—ABSOLUTE LIBERTY—JUST AND TRUE LIBERTY—EQUAL AND IMPARTIAL LIBERTY."

CHAPTER I.

THE ORIGINAL GRANT.

The first public movement, in Upper Canada, towards obtaining a provision for educational purposes, was made in 1797, when the Legislative Council and House of Assembly concurred in a joint Address to King George III., "imploring that his Majesty would be graciously pleased to direct his Government in this Province to appropriate a certain portion of the waste lands of the Crown, as a fund for the establishment and support of a respectable Grammar School in each District thereof; and also a College, or University, for the instruction of youth in the different branches of liberal knowledge." To this address a favourable answer was transmitted, in a despatch from the Duke of Portland, to the Honourable Peter Russell, then at the head of the Local Government, in which his Grace communicated his Majesty's "most gracious intention to comply with the wishes of the Legislature of his Province of Upper Canada, in such manner as shall be judged to be most effectual." With this view, Mr. Russell was directed to consult the members of the Executive Council, and the Judges, and Law-officers of the Crown, in Upper Canada, and to report to his Majesty's Government, "in what manner and to what extent a portion of the Crown Lands might be appropriated and rendered productive towards the formation of a fund for the above purposes." On the 1st December, 1798, the Executive Council reported to Mr. President Russell, that an appropriation of 500,000 acres, or ten townships, after deducting the Crown and Clergy sevenths, would be a sufficient fund for the establishment and maintenance of the royal foundation of four Grammar Schools, and an University, and that the proposed School fund should, when raised, be applied:

1st. For the erection of the necessary buildings.

2nd. For the payment of the salaries of the Masters.

3rd. For keeping the buildings in repair, the purchase of books and philosophical apparatus, and other purposes essential to places of education, but in general too costly to be provided by individuals.

The Council also reported that the towns of Cornwall, Kingston, Newark, and Sandwich were, at that time, the most proper places for the sites of the four Schools, and that they considered York as entitled to the University, both as being the Seat of the Executive Government, the Legislature, and the Courts of Justice; and as being by far the most convenient spot in the province for all general purposes—its situation being nearly central, and besides its accessibility by water, the then proposed high road from the one end of the province to the other being necessarily to pass near or through it. The Council proposed that two of the Schools—namely those at Kingston and Newark should be commenced first; and that, whenever the appropriated fund should be found sufficient, the towns of Cornwall and Sandwich should each receive a smaller tract of the Royal munificence. In this manner they conceived that the lands thus appropriated would not only be amply sufficient for the establishment and support of the four Schools, but would be nearly, if not quite adequate to the erection and endowment of the University, whenever the advancement of the Province should call for such an Institution, and they recommended, that the provision for the establishment and maintenance of the University should, at least, be equal to that of the four Schools taken together.

The precise details of the action which was taken upon this Report cannot now be ascertained, but it will be observed that the original instructions are sufficiently indicative of the intention of the Home Government to place the educational resources and their endowments under the control of the Local Legislature, at whose suggestion the appropriation was made.

In consequence of the reckless profusion of grants which placed the wild lands of the Province in the nominal possession of a few proprietors, who could neither use them themselves nor render them subservient to the promotion of any public purpose, the sale of lands and the advancement of the country were very slow, and consequently for more than twenty years after the original appropriation, the School Lands remained totally unproductive. In [illegible], the Legislature, to shew that something more than Grammar Schools was required, did all their limited means then permitted, in providing a small apparatus for the instruction of youth in physical science, and in 1807, a temporary act was passed by the Provincial Legislature, and made permanent in 1808, providing for the establishment of a School, answering to a Grammar School, in each District. The School Lands, however, afforded no aid to the District Schools, which were irrespective of the general endowment, and for the maintenance of which the Legislature was compelled to provide otherwise. In 1816, a law was passed for the further improvement and extension of Common Schools. This act was limited to four years continuance, and when renewed in 1820, several amendments were introduced which detracted very much from its value, particularly one which greatly reduced the appropriation.

The reduction referred to was the consequence of the arbitrary and exclusive views which had for sometime manifested themselves in the proceedings of the Executive Government. The High Church party had long monopolized all office and influence, and it is rarely that that party have given a willing support to any general system of Education. Least of all were they likely to afford any countenance to a scheme by which its blessings would have been equally diffused among all classes and denominations. They foresaw that if so valuable an endowment as the School Lands might eventually prove, were left to the disposal of the Legislature, the country would in all probability receive a popular system of Education, unfettered by party or sectarian restrictions, and that a favourable opportunity would then be lost, of placing the ascendancy of the Episcopal Church on a solid foundation. In 1818, the growing importance of the School Lands attracted the attention of the Government, and the attempt was then made, unfortunately been successful, to defeat the object of the grant by fraudulently diverting it from its original purposes. Without the consent, and indeed without the knowledge of the Legislature, by whom the School Lands had been held in trust, certain members of the Executive Government, among whom was Mr. Strachan (then a leading member of the administration), secretly planned and effected an arrangement by which the people generally might be deprived of all benefit from the endowment, by which the Legislature might be divested of its control, and by which the erection of the Grammar Schools might be postponed to an indefinite period in favour of an Episcopal University, established on such exclusive principles as would benefit only the party to which the members of the Government in those times invariably belonged. A fraud more disastrous to the people has not been perpetrated in the worst periods of Provincial corruption, but the secrecy with which it was devised and executed, effectually protected it from the opposition of the Legislature. The scheme was not once mooted in Parliament, and the robbery was consummated without a single voice being publicly raised in defence of the people's rights.

A Committee of the Executive Council, on 7th January, 1819, reported that no trace of any answer to the Report of the Council of 1st December, 1798, could be found in the Council Office;—that as they were of opinion with the Attorney General (Mr. Robinson) that the appropriation of land was not sufficiently sanctioned to authorise a grant to other parties than limited by his Majesty's Commission, they thought it proper to recommend that his Excellency Sir P. Maitland should call the attention of his Majesty's Government to a formal sanction to "sell, lease, grant, and dispose of the [illegible],000 acres of land for the purpose of establishing a University, as provision for District Schools was not by them thought necessary out of this fund, their establishment and maintenance having been already provided for by the Legislature; and that in order to construct the necessary buildings, the sum of £[illegible] would be required, with an endowment of £4000 per annum for the payment of salaries; and that a Commission should permanently attend, with large powers to sell and lease the land and manage its revenues, *under the direction of the Executive Government*." It was also considered "that it would conduce much to the importance and utility of the projected University *if its Constitution should be by a Royal Charter*."

If the necessity which existed for a University at the time when the population of Upper Canada did not exceed 145,000, and when private enterprise and public improvement were checked by every species of jobbing and extortion on the part of the Government, is to be estimated by the criterion which the parties who converted the allocation of the School Lands must admit to be a reasonable one—namely, the success of its opening after 24 years of subsequent commercial and agricultural improvement; after the country has quadrupled its population; when the increased value of the lands has enabled the University to enlarge its annual expenditure from £4000, originally proposed by the Executive Council, to nearly £15,000; when it has gone into operation with means munificent beyond all precedent in the early history of any literary institution in America, and [illegible] in the early history of any country; with a library, philosophical apparatus, and an array of professors and officers, unsurpassed by any other educational seminary on this continent; and when, after being all along under the fostering care and direction of the very individuals who projected its establishment, it has not been able to matriculate in its first and second terms more than 32 students,—it will appear sufficiently obvious that the Executive Government had other objects in view in effecting the alienation than the general diffusion of Education among the people. If, however, the establishment of a University was then deemed necessary, in consequence of the increased number of young men who were turning their attention to the learned professions, the Government was bound to have sought the means from other sources than the School Lands, of which the Legislature were undoubtedly the trustees, and even if the claim of the Executive Council to the control of the endowment had been well founded, its diversion from the original object was a direct violation of trust, and of the stipulations and agreements which had been expressly made when the appropriation was first proposed. The Report of the Council in 1798 suggested the necessity of establishing the Schools before the University should be proceeded with. It expressly stipulated that in the first place the two at Kingston and Newark should be placed on a permanent and substantial foundation, and that "whenever the circumstances of the Province should call for the erection of two other Schools, and also that the appropriation fund should be sufficient not only to bear the expense of the erection and endowment of those two Schools, but also to leave a residue sufficient for the establishment and future maintenance of a Seminary of a larger and more comprehensive nature, the same steps should be pursued with respect to such two Schools as have been already recommended with respect to the two Schools at Kingston and Newark." But what steps had been taken for the erection of the Schools here proposed? It is true that in 1807 the Legislature, finding it absolutely necessary to make some suitable provision for the education of the people, had established the District Grammar Schools, but the Executive Government of 1827 were perfectly aware, and none knew better than Mr. Strachan, their acknowledged leader, that however liberal the provision might have been when the population did not exceed 60,000, it was quite inadequate to meet the growing necessities of the Province from its increased commercial wealth and population. But if the Legislature, while the School Lands remained unproductive, availed itself of the constitutional means for the diffusion of education by direct taxation, it is difficult to see that in consequence of this step the people forfeited or surrendered their right to the endowment when the lands became available. It was obvious, however, that a popular system of education did not suit the views of the Executive Council, by whom every attempt to introduce it into the Province had been steadily resisted, and the establishment of the University was anxiously regarded as an important feature in the great scheme then contemplated by the High Church party to Episcopalize the Province, and to incorporate the Church of England with the Government, as an appendage to the State.

The acquisition of the School Lands offered prospective benefits of too valuable

a description to be left long unimproved by the High Church party. In consequence of a great portion of the endowment having been carelessly selected from indifferent land in remote parts of the Province, it had remained nearly unsaleable. It was therefore proposed by the Council that, in order immediately to place the University on a substantial foundation, the School Lands now appropriated to the University should be exchanged for an equal portion of the Crown Reserves, which were looked upon as immediately marketable. The character of the proposed institution was at the same time resolved on, and the exclusive Universities of England furnished appropriate models for the creation of this bulwark of Episcopacy. The only danger to be apprehended was the exposure of this nefarious scheme at a time when popular opinion might operate against its accomplishment; but at once to silence popular discontent and to protect themselves from future assaults, the High Church party formed the design of entrenching their position by a Royal Charter, which would thrust upon the Crown the odium of this illiberal institution. It was, however, easy to foresee that a Charter adapted to their designs would not be obtained without misrepresentations of so gross a character that ordinary ingenuity and boldness might fail in the attempt, and as His Excellency Sir Peregrine Maitland had refused his consent to the exchange of the School Lands for the Crown Reserves, without special instructions from the Home Government, the high and important trust was reposed in Dr. Strachan, of proceeding to England and soliciting in person from His Majesty's Ministers the private transfer of the people's rights—rights too sacred to be alienable even by themselves—and which, notwithstanding the courage with which he is amply endowed, he would have shrunk from proposing to the people's representatives.

The result of Dr. Strachan's mission to England is sufficiently known; but his proceedings while there, form too curious a chapter in the annals of the University to be overlooked in this place.

CHAPTER II

THE ORIGINAL CHARTER

When application for the Charter of King's College was made, Lord Bathurst—a bigoted High Churchman, and odious for his exclusive principles—held the seals of the Colonial Office. In him the High Church party of Canada reposed implicit confidence, and the most revolting proceedings were taken in order that a plausible case might be laid before the Secretary and his colleagues. The Dissenters of all denominations were calumniated and insulted in every shape that the rancorous hostility of the Press, and also the servility of the Pulpit, could devise. They were stigmatized as Republican in their principles, and disloyal in their affections—they were insultingly taunted with ignorance and illiteracy, and were even made the objects of systematic and direct persecution on the part of the magistrates. It was thought that if his Majesty's Ministers could be impressed with the idea that Dissenters generally were disaffected, measures would be adopted in Canada similar to those which had formerly driven the Puritans from the British shores, and that the Episcopal Church would be secured in those privileges and immunities which were enjoyed by the Establishment in England. Not the least notable of the slanderous effusions of High Church intolerance was a Sermon preached by Dr Strachan, then Archdeacon of York, immediately previous to his departure for England, on the death of Dr Mountain, the first Bishop of Quebec. On an occasion of such solemnity, it might have been supposed that the shafts of calumny and misrepresentation would have been sparingly used, and that over the ashes of the dead, sectarian hostility would have yielded to milder and holier feelings. For the benefit of those who are curious in High Church eloquence, we subjoin a specimen of the pious denunciations with which this Christian Archdeacon embalmed the name of his departed brother of Quebec:

"Even when churches are erected, the minister's influence is frequently broken or injured by numbers of uneducated itinerant preachers, who, leaving their ordinary employment, betake themselves to preach the Gospel from idleness, or a zeal without knowledge, by which they are induced without any preparation, to teach what they do not know, and which, from their pride, they disdain to learn.

"When it is considered that the religious teachers of the other denominations of Christians—a very few respectable ministers of the Church of Scotland excepted—come almost universally from the Republican States of America, where they gather their knowledge and form their sentiments, it is quite evident, that if the Imperial Government does not immediately step forward with efficient help, the mass of the population will be nurtured and instructed in hostility to our Parent Church, nor will it be long till they imbibe opinions any thing but favourable to the political institutions of England.

"It is only through the Church and its Institutions, that a truly English character and feeling can be given to, and preserved in any foreign possession."

Previous to Dr Strachan's arrival in England, the Colonial Secretary had been carefully prepared for the extraordinary demand which was about to be made. In a petition to his Majesty and the British Parliament, which he transmitted through Lord Bathurst, the Rector of York announced the following astounding facts:

"That the population now greatly increased, and embracing in its bosom many denominations of Christians, still retains its prominent feature of being attached to the Church of England, the members of which, together with the Dutch and German Lutherans, who join them in communion, comprising by far the most numerous description of Christians in Upper Canada.

That the very little progress made by the other denominations, compared to that of the Church of England, and the very recent establishment of their infant congregations, has generally created in the minds of the people a veneration for it, as the established form of worship, *a light in which it has always been presented* (by the Doctor and his friends), *to the inhabitants of that Province,* from their earliest years. Such is now the state of the Province, and the desire for religious instruction according to the forms and discipline of the Church of England, that many intelligent persons well acquainted with the Colony are of opinion, that along the greater part of the main road passing from one extremity of the Province to the other, a distance of nearly 600 miles, a Church might be erected, and a Clergyman profitably placed at the distance of every ten miles, and this exclusive of the parishes already established.

“That when new missions are planted in any quarter, not only those persons readily join who are not particularly attached to any denomination, but even Presbyterians and Congregationalists attend public worship with their families, so that on many occasions the whole neighbourhood becomes united to the Church; and not only are their dead buried according to its rites, but likewise the bodies of their friends and relations are frequently collected from private places of interment, and again consigned to their graves in the public burial ground, with the solemn offices of the Church. Moreover, their children are baptized and educated in the bosom of the Church, and the greater number at length confirmed by the Bishop; and a congregation is thus in a few years formed, strongly attached to our venerable Establishment, and even in those remote parts of the country where Methodist itinerants are the most active, as soon as the population is sufficiently compact to admit and require the ministrations of a regular Clergyman, *he finds his congregation increasing by the gradual accession of their more respectable adherents.*

“That the *Church is increasing so rapidly as to offer great encouragement to respectable families to bring up their children to the sacred profession; accordingly a list of more than thirty students now lies before your petitioners, and many more young men than can possibly be provided for, are presenting themselves* to the Lord Bishop as candidates for Holy Orders.”

“No objection is made by parents against teaching their children the Church Catechism and the service of the Church from the Book of Common Prayer; on the contrary, all denominations are desirous of obtaining both, for their own and their families' edification. The whole neighbourhood bring their children to the resident Clergyman to be baptized, and submit in great numbers, both old and young, to the rite of confirmation, send their youth to the Sunday Schools, and allow them, after their tasks are heard, to walk in procession to the Church. In fine, there evidently appears the fairest prospect that the Church of England, from the favourable disposition that now exists towards it, will be able to collect within its bosom the bulk of the inhabitants, *should no prospect of supporting their Clergy* be held out to the various Protestant denominations.

“That, with the exception of the Methodists, who have been deserted by their brethren in England, and left for instruction to itinerants from the United States, there appears no prominent denomination of Protestants in this Province; but the Established Church, capable of exciting public attention.

“There is no appearance in any other part of the Province of a single congregation in communion with the Kirk of Scotland being formed; nor is that denomination popular, for when the people leave the Established Church they claim the privilege of electing their minister from whatever quarter they please, which the Kirk denies them. Indeed the Presbyterian form of discipline and Church government is inconsistent with extension, as it cannot be complete out of Scotland, nor can its clergy be placed in a distant colony under vigilant superintendence.”

Immediately on his arrival in England in 1826 Dr. Strachan placed himself in communication with the leaders of the High Church party, from whom he solicited contributions in aid of the funds of the University, and their influence and assistance in obtaining an exclusive Charter. In England he openly avowed the designs which he dared not to have breathed in Canada. In a pamphlet, which he published in London, entitled "An Appeal to the Friends of Religion in behalf of the University of Upper Canada," he distinctly stated that it would be essentially a Missionary College "for the education of Missionaries of the Church of England"—and, as an inducement to the members of that Church to contribute towards the funds of the College, he maintained that the effect of establishing this University would be ultimately to make the greater portion of the population of the Province members of the Church of England.

To the various parties with whom the Reverend Doctor communicated privately, he urged every variety of argument, and, without much regard to consistency, he adduced every variety of fact. From the Society for the Propagation of the Gospel in Foreign Parts he claimed assistance on the ground of his "*having been instrumental in establishing a scheme in Canada, by which the education of the whole population is exclusively under the direction of the Church.*" He informed them that there were in this Province "300,000 British Protestants" (meaning of course members of the Episcopal Church), and that the only antagonizing influence with which they had to contend was the existence in Lower Canada of 400,000 Catholics. To the Church Missionary Society he repeated much of this invaluable information, and by way of shewing that the establishment of a University in Upper Canada was correlative to their zeal in propagating Christianity among the heathen, he enlarged upon his own tender and paternal feelings towards the Indians, and actually acceded to a proposal for the Establishment of Scholarships, with suitable professors, for the exclusive benefit of the Tribes.

But the most elaborate information in regard to the Ecclesiastical Statistics of the Province, was contained in a Letter and Ecclesiastical Chart which he transmitted to the Hon. R. J. Wilmot Horton, then Under Secretary of State, upon which communication he grounded the exclusive claims of the members of the Church of England to the benefits of the Clergy Reserves and the University. In the Chart he stated that "in connection with the Established Church there were 30 clergymen, 58 places where there was regular or occasional service, and more of frequent journeys taken by the missionaries in the new settlements in their neighbourhoods,—45 churches, and 31 regular parishes. That there were 7 ministers of the Independent or Presbyterian order, assuming the appellation of the Presbytery of the Canadas, but having no connection with the Kirk of Scotland,—that there were two ministers in connection with the Kirk—and "as the Methodists have no settled clergymen, it has been found difficult to ascertain the number of itinerants employed, but it is presumed to be considerable, perhaps from 20 to 30 in the whole Province. The other denominations have very few teachers, and those seemingly very ignorant. One of the two remaining clergymen, in communion with the Church of Scotland, has applied to be admitted into the Established Church."

Dr Strachan's Letter to Mr Horton, enclosing the Chart, furnishes so much important evidence of the gross misrepresentations upon which the Royal Charter was obtained, that it is proper to quote it at length:—

"Sir,—I take the liberty of enclosing, for the information of Lord Goderich, an Ecclesiastical Chart of the Province of Upper Canada, which I believe to be correct, for the present year 1827, and from which it appears that the Church of England has made considerable progress, and is rapidly increasing.

"The people are coming forward, in all directions, offering to assist in building churches, and soliciting with the greatest anxiety the establishment of a settled minister. Indeed, the prospect of obtaining a respectable clergyman, unites neighbourhoods together; and when one is sent of a mild and conciliatory disposition, he is sure in any settlement in which he may be placed, to form the respectable part of the inhabitants into an increasing congregation. There are in the Province 150 Townships, containing from 40 to 500 families, in each of which a clergyman may be most usefully employed, and double this number will be required in less than twelve years.

"When contrasted with other denominations, the Church of England need not be ashamed of the progress she has made. Till 1818, there was only one clergyman in Upper Canada a member of the Church of Scotland. This gentleman brought up his two sons in the Church of England, of which they are now parish priests. After his death, his congregation was split in three divisions, which, with another collected at Kingston, in 1822, count four congregations in all, which are in communion with the Kirk of Scotland. Two are at present vacant, and of the two Scotch clergymen now in the Province, one has applied for Holy Orders in the Church of England.

"The teachers of the different denominations, with the exception of the two ministers of the Church of Scotland, four Congregationalists, and a respectable English Missionary who presides over a Wesleyan Methodist meeting at Kingston, *are for the most part from the United States, where they gather their knowledge and form their sentiments.* Indeed the Methodist teachers are subject to the order of the Conference of the United States of America; and it is manifest that the Colonial Government neither has nor can have any other control over them, *or prevent them from gradually rendering a large portion of the population, by their influence and instructions, hostile to our institutions, both civil and religious, than by increasing the number of the Established Clergy.*

"Two or three hundred clergymen living in Upper Canada, in the midst of their congregations, and receiving the greater portion of their income from funds deposited in this country (England), must attach still more intimately the population of the Colony to the Parent State. Their influence would gradually spread, they would infuse into the inhabitants a tone and feeling entirely English, *and acquiring by degrees the direction of education, which the Clergy of England have always possessed,* the very first feelings, sentiments and opinions of the youth must become British."

Deceived by such representations, and unsuspicious of the veracity of the highest Episcopal Ecclesiastic of Upper Canada, the Colonial Secretary in an evil hour, affixed his signature and the Royal Seal to a Charter in the terms required, and the Archdeacon of York was rewarded with a sum of £1200 for his invaluable and meritorious exertions on behalf of the Episcopal Church.

When a Royal Charter was first openly spoken of in this country, it was generally understood that, as it was then impracticable to have several appropriate Colleges for the different sects, the University would be adapted to the existing state of the Province, and to the wishes and wants of its mixed population.

The consternation and disappointment, then were proportionably great when the provisions of the Charter became known, and it was ascertained that the University had been converted into a purely Episcopal College. In his Speech at opening the Parliament, on 15th February, 1828, his Excellency Sir P. Maitland said,—"I have much pleasure in announcing to you, that his Majesty has very graciously provided for the establishment of an University in this Province, and has bestowed means which will ensure the early accomplishment of an object, long regarded by me as among those most to be desired for the welfare of the Colony." But to that part of the Address the House of Assembly replied with becoming caution and reserve in the following words:

> "We shall be highly gratified to find that His Majesty has very graciously provided for the establishment and endowment of an University in this Province, if the principles upon which it has been founded shall, upon enquiry, prove to be conducive to the advancement of true learning and piety, and friendly to the civil and religious liberty of the people."

In the meantime, the terms of the exclusive provisions of the charter having transpired, the indignation of the Province was effectually roused. It was willingly believed that His Majesty's Ministers had been deceived by gross misrepresentation, and that if they had been truly informed of the condition of the Province, and the religious views and feelings of the people, the Royal sanction would never have been given to a charter which denied their civil and religious equality. Petitions from all parts of the country were poured into the two Houses of Parliament, representing that the principles of the Charter were inconsistent with the unimpaired preservation and maintenance of the civil and religious rights and privileges of the people. It was thought that a University, adapted to the character and circumstances of the people, would be the means of incalculable benefit to the Province; but, to be of such service, the principles upon which it was established should have been in unison with the general sentiments of the country—that it should not be a school of political or sectarian views—and that it should have about it no appearance of a spirit of partiality or exclusion. That its portals should be thrown open to all, and upon none who entered should any influence be exerted to attach them to a particular creed or Church. That it should be a source of intellectual and moral light and animation, from which the genial radiations of literature and science might descend upon all with equal lustre and power. But if King's College under the Charter, formed as it was for the exclusive advantage of a single Church, and that a minor one, should be suffered to go into operation, without material amendments in its provisions, and without another College being established for the general benefit of other religious denominations, the inevitable consequence would be that the native youth of the Province, receiving a public education would, with the exception of Protestant Episcopalians, be generally sent out of the Province to obtain it at Colleges where they could be taught classical learning and the arts and sciences without prejudice to their religious principles and feelings. Parents who were conscientious in their profession of religion would not willingly put their sons, in the unguarded season of youth, under a pretext of religious proselytism to a different faith; and the people felt that to be thus excluded from the offices and honours of the only College in the Province, and subjected to literary as well as ecclesiastical domination, for no other cause than that of adhering to the dictates of their conscience, was an unmerited degradation. It was at once perceived that the grand policy of the High-Church party to Episcopalize the Province had come into operation; and that this was one great step towards the establishment of a minor Church, with exclusive privileges and resources, over a dissenting majority of the population—declaring her form of religion to be the established religion of the Province, and her ministers the only Protestant Clergy, granting them civil monopolies and immunities, and a control of the education of youth by means of the University. It was felt that such a system would, as it had been in Ireland, be a perpetual source of religious and political animosity—that it would give one Church a permanent separate interest adverse to the other more numerous Churches—and that all those other Churches, irritated by a baneful monopoly and domination, would be induced to make common cause in their own defence in opposition to the dominant Church.

It was therefore thought that his Majesty's Government could never have contemplated the limitation of its beneficence, by establishing the University upon such terms as must either preclude from its benefits the greater part of those for whom it was originally intended, or subject them at an age ill qualified to guard against such attacks to the silent but powerful influence of a prevailing and regular system of proselytism; and that they could not have been aware of the insurmountable objections to which, from the circumstances of the country and the sentiments of the people, some of the provisions of the Charter were liable.

Petitions were at the same time presented to Parliament by various denominations of Christians, praying an inquiry into the truth of the charges and statements made by the Archdeacon of York, relative to the character and instructions of the respective clergy whom he had stigmatized as mixing up sedition with the Word of God. These petitions, with the others, praying for inquiry into the principle on which the University was established, were referred to a Select Committee of the House of Assembly, with power to send for persons and papers, and to report thereon. This Committee performed their duties with the strictest impartiality. Before proceeding to the examination of the Letter and Chart, the Chairman transmitted to Dr. Strachan a copy of one of the petitions referred to them, and informed him that they would be happy to receive from him any information upon the matter submitted to their consideration. To this communication Dr. Strachan returned an answer, declining to avail himself of the Committee's offer to receive explanations, but adhering to the statements which he had made in England. "For my opinions," he wrote, "I am responsible to no one. I had no desire to conceal them, and they were therefore publicly and openly expressed. No consideration could have prevailed upon me to deny or mis-state them; but in applying them every candid mind will feel that the general expressions must admit the existence of exception. I desire it only to be borne in mind that they were given *from memory*)" a circumstance which Dr. Strachan took especial care to conceal from Mr. Horton. The Committee framed a list of fourteen questions, and examined in all fifty-two witnesses. Among the witnesses were all the Members of the House of Assembly, whose testimony they could obtain; some Members of the Honourable the Legislative Council of long residence, high standing, and large possessions in the Province; various Clergymen of different denominations in York and its vicinity; and a few other individuals of high respectability.

The questions put by the Committee, related, among other things, to the birth-place and education of the ministers of the various denominations; the tendency of the institution and influence of the Clergymen throughout the Province; the asserted increase of the Episcopal Church and the tendency of the population toward it; the wishes of the inhabitants of Upper Canada in regard to the establishment of one or more Churches or Denominations in the Province with peculiar rights, privileges or endowments; the interference in politics by the Clergymen of the various denominations; the proportion of the members of the Episcopal Church to the whole population of the Province; the opinions of the witnesses as to which was the most numerous denomination of Christians in the Province; the asserted ignorance of the teachers of the various Christian Denominations; and the accuracy of Dr. Strachan's Ecclesiastical Chart of the Province.

The interrogatories elicited a mass of curious and interesting information as to the early Ecclesiastical history of Upper Canada—and in every important particular Dr. Strachan's statements were proved to be false by the most irrefragable testimony.

The assertion in Dr. Strachan's letter that "the people are coming forward in all directions offering to assist in building Churches, and soliciting, with the greatest anxiety, the establishment of a settled Minister," and that "the tendency of the population is toward the Church of England, and nothing but the want of moderate support prevents her from spreading over the whole Province," were completely overthrown by the evidence. It was proved that although the Episcopal Church had always enjoyed peculiar advantages in Canada, although it had been the religion of those high in office and had been supported by their influence and countenanced more than any other Church by the favor of the Executive Government; that although its clergymen had possessed the exclusive right of marrying persons of all denominations; and that although the clergymen of the Episcopal Church had also been liberally supported and their Churches partly or wholly erected and maintained from the funds of a Society in England; still the number of members of that Church had not increased in the same proportion as that of several other denominations, and the opinion of the witnesses was decidedly expressed that the tendency of the population was not toward that Church. On the other hand, the highest testimony was offered to the disinterested and indefatigable exertions of the Methodist, Presbyterian and other clergymen who had been calumniated by Dr. Strachan's pamphlet.

instructions.—Their influence and instruction, far from having (as was represented in the letter) a tendency hostile to the religious and political institutions of the Province, have been conducive in the highest degree to the reformation of their hearers from licentiousness, and the diffusion of correct morals, the foundation of all sound loyalty and social order. There was no reason to believe that, as religious bodies, they had failed to inculcate, by precept and example, as a Christian duty, an attachment to the Sovereign and a cheerful and conscientious obedience to the Laws of the country.

Compared with the whole population, the members of the Church of England were found to constitute an extremely small proportion. On this subject the Committee used every exertion to inform themselves with accuracy. Besides obtaining answers from the witnesses to very minute questions, a Committee was appointed to hold its meetings at York, called the Central Committee of Upper Canada, and was directed to correspond with the other parts of the Province, to suggest the appointment of District Committees, and to request that they would carefully collect and transmit to the Central Committee at York, accurate information respecting the number of persons belonging to the religious denominations in their neighbourhood. In consequence of these instructions, communications were received from the various parts of the Province, containing correct and full information upon this subject, obtained from personal knowledge or inquiry, and authenticated by the signatures of respectable inhabitants. A Chart was formed from the materials thus obtained, and presented, in the opinion of the witnesses who spoke to it, a very complete and fair view of the number of ministers and of the different religious denominations in the Province. The information conveyed by that Chart so completely and satisfactorily contradicts and falsifies Dr. Strachan's statements, and bears so materially on the question, whether a Charter granted on false representations and calumnious insinuations, should not be set aside and cancelled, that we think it right to subjoin abstracts of the Charts framed by Dr. Strachan and by the Committee of the House of Assembly respectively.

ABSTRACT OF DR. STRACHAN'S ECCLESIASTICAL CHART

FOR THE YEAR 1827

DENOMINATIONS.	Clergymen.	Places of Worship.	Churches built or building.
Episcopalians,	39, and 1 under consideration.	58 places where regular or occasional service.	45, ten of them building.
Kirk of Scotland,	2, two others vacant.	4	
Independents,	2	1	
Methodists,	From 20 to 30.*		

---

* "As the Methodists have no settled Clergymen, it has been found difficult to ascertain the number of itinerants employed; but it is presumed to be considerable—perhaps from twenty to thirty in the whole Province. The other denominations have very few teachers, and those exceedingly ignorant. One of the two remaining Clergymen in communion with the Church of Scotland, has applied to be admitted into the Established Church."—*Dr. Strachan's Note.*

ABSTRACT OF ECCLESIASTICAL CHART PREPARED BY COMMITTEE OF THE HOUSE OF ASSEMBLY

REPORTED MARCH 5, [illegible]

Denominations.	Number of Preachers.	No. born in His Majesty's dominions.	No. born in Foreign countries.	No. birth unknown.	No. educated in His Majesty's dominions.	No. educated in Foreign countries.	No. educated unknown.	No. naturalized.	No. not naturalized.	No. of Members or regular Communicants.	No. of Churches or Chapels.	No. of places of regular service.	No. of places of unknown service.	No. of regular hearers.
Methodists,	117	26	87	6	30	85	0	30	0	1095	60	680	130	30,211
Baptists,	65	30	4	15	38	1	10	4	0	1430	0	0	No return	3548
Episcopalians,	30	11	0	30	10	1	30	0	0	No return	35	31	30	No return
Presbyterians,	16	13	2	2	13	3	0	1	0	640	10	No return	No return	No return
Kirk of Scotland,	6	4	0	2	0	0	2	0	0	No return	No return	No return	No return	No return
Mennonists and Tunkers,	30	6	30	0	0	30	0	12	0	1104	8	No return	No return	5000
Wesleyan Methodists,	1	1	0	0	1	0	0	0	0	60	1	1	No return	100

NOTE.—The Roman Catholics are not given in the Chart, but it is well known that they were equal in number to any other denomination in the Province. There was also a considerable number of Lutherans and Quakers, of whom no notice seems to have been taken by the Committee.

No return seems to have been obtained from the Episcopalians of the number of regular hearers. It would be impossible to hazard a conjecture as to their number. In a "Report of the Society for the Propagation of the Gospel in Foreign Parts, for the year 1825" it is stated that "the aggregate number of Church of England communicants at any one time during that year was 307."

That the grand policy of the High Church party was to Episcopalise the Province by means of the University was now sufficiently obvious from the writings and sentiments of their acknowledged leader, who readily avow that such was the natural tendency and effect of putting into the exclusive hands of the Episcopal Church, the only seminary of learning in the country where a liberal education could be obtained. It was obvious, however, that there was in the minds of the people generally, a strong and settled aversion to any thing like an Established Church—the very attempt to invest the Episcopal Church with peculiar rights and privileges, from which the other sects were excluded, excited the greatest alarm and jealousy throughout the country. It was felt that it would be impolitic, as well as unjust, to exalt that Church, which embraced so small a minority of the inhabitants, by exclusive rights above all others of his Majesty's subjects, who were equally conscientious and deserving; and that the jealousy and alarm of the people were sufficiently well founded was but too obvious from the exclusive provisions of the Charter itself, a copy of which was sent down to the House of Assembly by the Lieutenant-Governor.

It appeared that the following were among its provisions: The Bishop of the Diocese was to be visitor, and as such might disapprove of the bye-laws made for the College by the Council, which thereby became void, unless His Majesty in Privy Council afterwards reversed this order; the Governor, Lieutenant Governor, or person administering the Government, was to be Chancellor; the President was to be a Clergyman in holy orders of the Church of England; the Honourable and Venerable Doctor Strachan, Archdeacon of York, was to be the first President—the Corporation was to consist of the Chancellor, President, and Scholars of King's College, and was authorised to take and hold real Estate, not exceeding the yearly value of £15,000; the College Council was to consist of the Chancellor, President, and seven other persons, who were to be Members of the Church of England, and to sign the thirty-nine Articles of that Church, previous to their admission into the Council; the Council, under certain restrictions, were to make bye-laws for the College; one of those restrictions was, that no religious test or qualification should be required of, or appointed for any persons admitted or matriculated as Scholars in the College, except that those admitted to the degree of Doctor in Divinity should take the same declarations and subscriptions, and take the same oaths as are required of persons admitted to any degree of Divinity in the University of Oxford. The Chancellor, President, and Professors of the College, and all persons admitted in the College to the degree of Master of Arts, or to any degree in Divinity, Law, or Medicine, who, from the time of such admission should pay the annual sum of 20s. sterling, towards the support of the College, were to be members of the Convocation.

Such were the exclusive constitution and government imposed upon an institution professedly designed for the promotion of science and learning among the people of Canada. That a Charter so violently repugnant to the feelings and convictions of the community should have been received with joy by the

High Church party, was of course to have been expected; but that the British Government should, in a matter of this kind, have shewn any disposition to plant institutions in its transatlantic dependencies in accordance neither with the spirit of the age, nor with the principles which had for some time governed its domestic policy, can only be attributed to the fact—of which abundant proof has been given—that it was grossly deceived and imposed upon. And even were there not in existence ample documentary evidence in support the charge of deception, how otherwise is it possible to reconcile the policy of that Government which had uprooted intolerance at home, and was about to wage open war with all monopolies and exclusions, civil, religious, and commercial; which had recently relieved the Dissenters of the odious Test and Corporation Acts; which was diffusing the blessings of a national education among the people of Ireland, without distinction of creed; and was about to send joy and gladness into the bosoms of the Roman Catholics, with the acceptable boon of Catholic Emancipation; —with the establishment, in a country buoyant with free principles, and in a vast community composed of Christians of different faiths, and worshipping under different forms, of a University unparalleled for its exclusive character and odious distinctions by any educational Seminary on the continent of Europe? Oxford and Cambridge indeed formed exceptions to the universal abandonment of tests—and even there, religious restrictions were only defended and maintained on account of the intimate association and practical connection of these time-hallowed Institutions with the National Church. Yet in Oxford and Cambridge themselves religious distinctions were comparatively new, and had been imposed at a period—by no means the brightest in their annals,—when genuine freedom was almost unknown, and when speaking of liberty, or expressing an opinion favouring of schism was sufficient to bring a man within the fangs of the Court of High Commission.

But when the Charter of King's College was obtained, such intolerant principles had been repudiated by every State in Europe, and exclusive distinctions on account of religion had been abandoned in all the great National Universities. In France, in Germany, and in Austria, persons of all religions were freely admitted into the Professors' chairs. In the University of Bologna, where the Papal authority was paramount, there was no exclusion on the ground of religion. In Pisa, no distinctions were recognized; and, in point of fact, Mohammedans, Jews, Greeks and Turks were indiscriminately admitted. Indeed it frequently occurred that some of the Professors' Chairs were filled by English Protestants; and one circumstance sufficiently attests the total absence of that fanatical intolerance which seemed to have been put to flight in Europe, to find a refuge in the Academies of Canada. When a Mohammedan takes a degree at Pisa, the Chancellor, who is generally a Vicar-general or Archbishop, leaves the chair, and the Vice-Chancellor, whose religious scruples are not necessarily under the influence of Church preferment—presides at the ceremony. At Padua, the chairs have been frequently filled by foreigners,—by members of the Church of England,—by Presbyterians, and by Calvinists. Thus, in the Roman, Venetian, and Austrian States, there was an absence of jealousy and religious exclusions at the Roman Catholic Universities. Nor was there any disposition to interfere with rational consideration and the rights of private judgment exhibited in the Universities in any part of Protestant Europe. In Bonn, Baden, Breslau, and Copenhagen, the Universities were open to all. In Leyden, the Professors might be Roman Catholics; and in Copenhagen, one of the chairs was, at the very time the Charter of King's College was obtained, filled by a Jew. In the Scottish Universities, the Test Statute originated in the zeal of the anti-patronage Presbyterians after the Revolution, and was enacted by the Scotch Parliament for the sole purpose of excluding Episcopalians from the Colleges, at a time when Episcopalians and members of the Society of Friends were considered to be alike unworthy of toleration. For many years, however, the Statute had been evaded, and its evasion winked at by the constituted authorities; and it is a somewhat remarkable circumstance, that a pretty liberal infusion of Episcopalian Professors, Lecturers and Students into the Scotch Universities seems to have been attended with no very fatal result. Indeed, while every University in Europe was practically thrown open to persons of all religious persuasions, Oxford and Cambridge alone were close; and yet modelled upon these exclusive establishments, in which High Church principles have ever been dominant, and a violent and bigoted hostility to the claims of Dissenters, has ever been maintained,—the attempt was made to establish a University, intended to be the hotbed and nursery of intolerant prejudices, in a country whose very atmosphere was freedom—whose infancy and growth, unlike that of the European States, had not been stunted by oppression—but which had sprung at once into the full manhood of liberty and the possession of political rights; among a people who had ever evinced the most inveterate dislike of a dominant Church, and a severe jealousy of religious distinctions, and whose proximity to a land of free institutions, naturally made them chafe under any galling ascendancy which might expose them to the taunts of their democratic neighbours.

Were the character of Lord Bathurst less understood, or were the blind and bigoted zeal of the High Church party in England, as well as in Canada, less violent and unsparing, it would be difficult to conceive how the gross and calumnious misrepresentations of the Archdeacon of York, urged even though they were with the reckless temerity for which he is remarkable, should have escaped detection. Certain it is, that within the space of a few months, he had published statements, not only at wide variance with the truth, but most violently contradictory to each other. Thus, for instance, in his sermon on the death of the Bishop of Quebec, he complained that, "sectaries of all denominations are increasing on every side;" while in his letter to Mr. Horton he affirmed that "the Church of England is rapidly increasing," and that "the tendency of the population is towards that Church." In the sermon he admitted, that "even where churches were erected the persons who gave regular attendance are so few as greatly to discourage the ministry;" while in the letter he asserted that, "the people are coming *forward in all directions*, offering to assist in building churches, and soliciting with the greatest anxiety the establishment of a settled ministry." In the reckless statements which he poured forth in England, he unhesitatingly averred, that "the members of the Church of England were the most numerous of any religious denomination in the Province;" but when examined on oath by a Parliamentary Committee in reference to the truth of that statement, and confronted with persons intimately acquainted with the state of the country, he admitted that "he never knew the number of members belonging to the Church of England, and that he could not tell how numerous they were." Such are only a very few of the glaring inconsistencies and contradictions which graced the written and public utterances of this Episcopal dignitary; and yet so little in unison was the local Administration with the interests and feelings of the people, and so little were those interests and feelings known or understood by the British Government, that his calumnies and mis-statements were implicitly believed, and, without further inquiry having been instituted, were made the ground for the establishment of an Episcopal University for the exclusive benefit of an inconsiderable minority of the community.

It would be a matter for much curious and not uninstructive speculation, to inquire by what irresistible arguments of a violent and bigoted partisan, a Colonial Minister could be induced to insult the convictions, and to trample on the liberties of a free people. It was impossible to mistake Dr Strachan's real object, for that was openly avowed, and in fact, it formed no part of his plan to conceal his ultimate design. His undisguised and avowed object was to Episcopalize the Province, and as the readiest means for attaining so desirable an end, he proposed that a fund, originally appropriated for the purposes of general education, should be applied to the endowment of "an essentially Missionary College, for the education of missionaries of the Church of England," which, he trusted, would be [illegible] supported [illegible] such members by means of the Clergy Reserves, as would speedily reduce the Province to the ecclesiastical jurisdiction of that Church. And by what honeyed phrases and treacherous sentiments was this Colonial Minister induced to give his Majesty's sanction and approval of a nefarious and fraudulent scheme to rob the Canadian people of their birthright? Does the venerable Archdeacon inform the Colonial Secretary that there are three denominations in the Province more numerous than the Church of England? Does he tell him what, as a minister of Truth, he had but a few months before told the people of Canada from the pulpit, that "where churches are erected the persons who give regular attendance are so few as greatly to discourage the minister, and that sectaries were increasing on every side?" Does he intimate that the means for the diffusion of general education are deplorably deficient, and that the endowment originally set apart for that purpose had never become available? Dr Strachan has too ready a perception of the character with whom he had to negotiate, to hope for success by revealing startling facts, but he at once reverts to the old argument practically carried out by the Stuarts, and which still had its admirers among the High Churchmen of England. He informs the Secretary that the dissenting preachers are low and ignorant, and that their hearers are disaffected. The dissenters were ignorant—and yet he would exclude them from the best education which the country could afford! They were disaffected—and yet he would drive them for their education to foreign seminaries, where their principles might be endangered! Their ministers were placed in situations requiring the highest cultivation of the mind—and yet he would debar them from the means of qualifying themselves for the discharge of those duties which their situation imposed upon them! He would exclude them from knowledge—and yet punish them for ignorance! He would rail against their disaffection, and yet preclude them from the enjoyment of those civil privileges which were open to others by partiality and favouritism! Admirable High Church logic! Generous exuberance of High Church philanthropy! It is not impossible that the love of classical allusion which recently inspired the venerable Bishop of Toronto, in his luminous comparison of the principle of University Bill with the policy of "Pagan Rome, which, to please the nations she had conquered, condescended to associate their impure idolatries with her own;"* may also have felicitously suggested to the erudite Archdeacon of York, a parallel illustration of High Church doctrine in the Emperor Julian's celebrated decree, which prohibited all Christians from the study of heathen learning—for, reasoned that practical and precocious expounder of High Church policy—"they will wound us with our own weapons, they will overcome us with our own arts and science." Alas! how fatal to the peace and prosperity of Canada—how disastrous to the interests of true religion has it been, that this proselytising Prelate, and the intolerant party with which he is associated, should never have been able to discover, that if the principles of Episcopacy are so conducive to loyalty and good government, no more effectual method could be devised for bringing the dissenters within the pale, as well of the constitution as of the Church itself, than by admitting them to a full and unreserved participation with its members in the privileges and benefits to be derived from the general institutions of the country.

CHAPTER III

PROCEEDINGS IN PARLIAMENT

Dr. Strachan's calumnious misrepresentations drew down upon him the indignation of the whole Province. Numerous petitions from every part of the country, and from Christians of all denominations, were addressed to the Provincial and Imperial Parliaments, emphatically disavowing the disaffection which had been libellously imputed to them. Many who had been previously passive were now roused into active exertion. Public meetings were held at

---

* See Bishop Strachan's Memorial to the Legislature, against the University Bill, in 1843.

York and various other places, where expression was freely given to the indignation which was universally felt at the illiberal and exclusive provisions of the Charter, and the base insinuations by which the character of the Clergy had been stigmatized. This fresh attempt to trample on their civil rights was viewed by the people as part of that system of religious intolerance under which they had long groaned, and of which Dr. Strachan had been the chief promoter.

Year after year he had opposed a Bill to allow the Clergy of the various sects to solemnize marriages among their own flocks, and through his untiring instrumentality, a Bill authorizing the different denominations to hold lands, which had been repeatedly passed in successive sessions by the Assembly, was defeated in the Legislative Council. Irritated by direct injury, and indignant at the manner in which their representations had been received by the Local Administration, it was at length resolved to make a solemn and direct appeal for redress to the British Government, and, at the same time, to call the attention of the Imperial Parliament to the degrading position in which the people of Canada felt themselves placed by the local Government. Accordingly, at a Public Meeting, held at York, in the beginning of 1828, an Address to the House of Commons was agreed upon, and, after receiving the signatures of 8000 Christians of all denominations, was transmitted to Mr. Hume for presentation. In laying this Address on the table of the House, Mr. Hume ably exposed Dr. Strachan's calumnious insinuations and mis-statements, and thus alluded to the Charter of King's College:—

"The Charter requires all the Professors and Officers of the University to subscribe the Thirty-nine Articles of the Church of England. This is the spirit in which the regulations are drawn up for a Public Seminary, at which the youth of Upper Canada are to be educated. They are taught by Professors who hold the tenets of a small minority only of these Provinces. I have reason to believe that His Majesty's Government have been much imposed upon by Dr. Strachan, whose statements are completely exposed by the petition. This reverend gentleman has aroused all classes by his aspersions upon the Clergy of all other denominations. He has thrown out the most vague accusations and suspicions respecting their fidelity and loyalty, which he has addressed especially to the Royal ear, with the view of poisoning it. Among other misrepresentations, Dr. Strachan stated, that of all the Clergymen in Upper Canada, not belonging to the Church of England, there were only five who were not from the United States, where he said they acquired opinions at variance with their duty as subjects of His Majesty. He asserts, also, that they are under the influence of the American Conference, and that the Colonial Government has no control over them. This is a gross misrepresentation, yet by means of it Dr. Strachan has persuaded His Majesty to increase the exclusive privileges of the Church. What will the House say when I tell them that the members of the Church of England form only a tenth part of the population, and when they hear how grossly Dr. Strachan has slandered the other Clergymen of Upper Canada. By the investigation which has been instituted in consequence of his misrepresentations, it appears that there are altogether three hundred and twenty-five Clergymen in Upper Canada, of whom there are only thirty-one Ministers of the Church of England. Yet, on the recommendation of the reverend gentleman His Majesty's Ministers were to establish three hundred Ministers of the Church of England at the public expense, and had endowed an University for the education of all classes, where the Professors are required to belong to the sect which comprises only a tenth part of the population. Of other Clergymen, there are one hundred and seventeen Methodists, forty-five Baptists, and about forty or fifty of other denominations. So far from all of these having been educated in the United States, one hundred and thirty three of the Methodists and Baptists, though only eleven of the Ministers of the Church of England, were all born and educated in His Majesty's dominions. These were the slanderous representations made by Dr. Strachan against so respectable a body as the Clergy of Upper Canada. The Clergy alone do not deem themselves aspersed by these statements; their congregations also, and justly, considered themselves calumniated. The petitioners object to any sect being particularly selected for preference and ascendancy, and they beseech the House that Christians of all denominations may enjoy the blessings of religious liberty, and, according to their talents, worth and knowledge, be encouraged and protected. How utterly false the statements of Dr Strachan are respecting the character and conduct of the Methodists, may be inferred from the answer he has received as to his assertion, that a large proportion of the members of the Assembly belong to the Church of England. The Legislative Assembly of Upper Canada have lately agreed to this effect—'That the number of members of the Protestant Episcopal Church appears but very small, in proportion to the number of other Christians, notwithstanding the pecuniary aid received by that body from the Society in England, and its pretensions to the monopoly of the Clergy Reserves.' This resolution was supported by twenty-seven members out of the thirty who compose the Assembly. It is a complete denial of the statements of Dr Strachan, which are shown to be unfounded in every respect, and unworthy of belief. The reverend gentleman, in his letter, said that there was a tendency among the people of Upper Canada to follow the Church of England; and, on the faith of this representation, he has obtained an annual stipend to build churches for the use of only one-tenth of the population. He is acting altogether in a manner to excite the strongest feelings of the Colony against him and the Establishment to which he belongs. The peace of Upper Canada has been endangered by the conduct of Archdeacon Strachan. His conduct has produced more discontent than any other subject whatever. This reverend gentleman fills his letter with attacks upon the other religious denominations; and what has been the consequence? There is not a county in the Province that did not declare the letter to be a slander; and the House of Assembly, by a majority of 27 to 3, declared it to be a gross and slanderous libel on the Province. And did the Government call this man to account? No—this individual was allowed to remain, and no interference on the part of the Attorney-General was made, although if a Dissenter or any person belonging to any other sect had written such a letter as that of this Archdeacon, an ex-officio information would have been inevitable. This man ought not to be allowed to go on and create discontent throughout the Province."

A copy of the Charter having been transmitted by the Lieutenant-Governor to the Legislative Assembly, its provisions created much dissatisfaction, and were severely animadverted on. The House ordered a copy of the Report of their Committee, with the evidence which they had procured, and the Charter framed in accordance therewith, to be transmitted to the Imperial Parliament; and, at the same time, adopted the following Address to the King, which was passed by a majority of twelve in a House composed of thirty members:—

"TO THE KING'S MOST EXCELLENT MAJESTY.

"Most Gracious Sovereign,

"We, your Majesty's dutiful and loyal subjects, the Commons of Upper Canada, in Provincial Parliament assembled, humbly beg leave to represent to

your Majesty, that we have seen, with equal surprise and regret, a Letter and Ecclesiastical Chart, addressed by the Honourable and Venerable Doctor Strachan, Archdeacon of York, a member of your Majesty's Legislative and Executive Councils of this Province, to the Right Honourable R. J. Wilmot Horton, Under Secretary of State for the Colonies, as they are inaccurate in some important respects, and are calculated to lead your Majesty's Government into serious errors.

"We beg leave to inform your Majesty, that of your Majesty's subjects in this Province, only a small proportion are members of the Church of England; that there is not any peculiar tendency to that Church among the people, and that nothing could cause more alarm and grief in their minds than the apprehension that there was a design, on the part of your Majesty's Government, to establish, as a part of the State, one or more Church or denomination of Christians in this Province, with rights and endowments, not granted to your Majesty's subjects in general of other denominations, who are equally conscientious and deserving, and equally loyal and attached to your Majesty's Royal Person and Government. In following honestly the dictates of their conscience, as regards the great and important subject of religion, the latter have never been conscious that they have violated any law or obligation of a good subject, or done any thing to forfeit your Majesty's favour and protection, or to exclude themselves from a participation in the rights and privileges enjoyed by your Majesty's other subjects.

"We humbly beg leave to assure your Majesty, that the insinuations in the Letter against the Methodist Preachers in this Province, do much injustice to a body of pious and deserving men, who justly enjoy the confidence, and are the spiritual instructors of a large portion of your Majesty's subjects in this Province. We are convinced that the tendency of their influence and instruction is not hostile to our institutions, but, on the contrary, is eminently favourable to religion and morality—that their labours are calculated to make their people better men and better subjects, and have already produced in this Province the happiest effects.

"While we fully and gratefully appreciate your Majesty's gracious intention in granting a Royal Charter for the establishment of an University in this Province, we would beg most respectfully to represent to your Majesty, that, as a very great body of your Majesty's subjects in this Province are not members of the Church of England, they have seen, with grief, that the Charter contains provisions which are calculated to render the Institution subservient to the particular interests of that Church, and to exclude from its offices and honours all who do not belong to it. In consequence of these provisions, its benefits will be confined to a favoured few, while others of your Majesty's subjects, far more numerous and equally loyal and deserving of your Majesty's paternal care and favour, will be shut out from a participation in them. Having a tendency to build up one particular Church to the prejudice of others, it will naturally be an object of jealousy and disgust. Its influence as a Seminary of learning will, upon these accounts, be limited and partial. We therefore humbly beg that your Majesty will be pleased to listen to the wishes of your Majesty's people in this respect, and to cause the present Charter to be cancelled, and one granted free from the objections to which, emboldened by a conviction of your Majesty's paternal and gracious feelings to your loyal subjects in this Province, as well as by a sense of duty to the people, and a knowledge of their anxiety upon the subject, we have presumed to advert.

"*John Willson, Speaker*.

"*Commons House of Assembly*,
"20th March, 1828."

The universal excitement throughout the Province, caused by the arbitrary attempt to establish a dominant Church, supported by a privileged University among a people in the last degree hostile to their pretensions, at length attracted the attention of the British Government, and, on the motion of Mr Huskisson, then Colonial Secretary, in compliance with the wishes expressed in the Canadian petitions, a Committee of the House of Commons was appointed to investigate the whole subject of the Civil Government of the Province. In the spirited debate which took place on this motion, several distinguished members expressed their strong disapprobation of the principles of the Charter of King's College, and inveighed against the absurdity of forcing the exclusive restrictions of the English Universities upon a people who had invariably opposed the intrusions of law into the domain of conscience and religious opinion. Sir James Mackintosh the gifted philosopher, statesman and historian, on that occasion, observed:—

"Endowments may be sacred, when they are guarded by centuries of existence, and by a long and well-known system of law; but I do not see any reason for making them now, in a new land, where the religion is different from that of the Church to which they are granted. Neither do I understand the regulations which have been made for the new College of Upper Canada. I see with astonishment, that in a country where the majority of the people do not belong to the Church of England, the Professors must all subscribe the Thirty-nine Articles; so that if Dr Adam Smith were alive, he could not fill the Professor's Chair of Political Economy; and if Dr Black were alive, he would be excluded from the Chair of Chemistry. In short, these regulations would exclude almost all the great teachers and illustrious men of the last age, were they in existence, and that too in a country where no such thing as a Test Act is known. I do not know what will be the consequence of such an arrangement. I cannot see by what process of the human mind it can happen that the inhabitants of Canada shall like a College which is foreign to the institutions of America, which is in favour of a Church which is not of their religion. It is a bad augury, I think, for the administration of the colony, and it confirms an opinion I have long entertained, that it is not fitting for us here to make a charter for a colony which is some thousand miles distant from us. If a faction in the colony should have made the regulations of which I complain, we ought to interfere to prevent its operation."

On the same occasion, Lord Stanley, the present Secretary for the colonies, thus expressed his views:

"I should be ready to contend, if I were now sitting on the committee, that if any exclusive privileges be given to the Church of England, the measure will be repugnant to every principle of sound legislation." "I will not enter further into it at the present moment, except to express my hope that the House will carefully guard Canada against the evils which religious dissensions have already produced in this country and in Ireland, where we have examples to teach us what to shun. We have seen the evil consequences of this system at home. God forbid we should not profit by experience, and more especially in legislating for a people bordering on a country where religious intolerance and religious exclusions are unknown. It is important that his Majesty's Canadian subjects should not have occasion to look across the narrow boundary which separates them from the United States, and see any thing there to envy. We should bear in mind the principles of a liberal and comprehensive policy, and be checked by none of those considerations, which at home, we hope, it is necessary to observe with respect to previous interests and existing prejudices. There we may begin *de novo*—there we may follow the most enlightened liberality—the soundest and most prudent policy we can adopt. We may thus preserve our friendly relations with Canada,

both as the Parent State while she remains a Colony, and when, in the course of ages, she becomes independent as an ally."

During the course of their investigations, the Charter of King's College was brought under the notice of the Committee, and, as a modification of its provisions had been warmly urged in all the petitions from the Upper Province, the Committee took great pains to ascertain accurately the Ecclesiastical Statistics of the country. Proceeding upon the voluminous evidence which they collected from persons of unquestionable character, they reported that the most important assertions of the petitions had been completely proved, and the result of their general labours was to suggest many liberal views of policy and important changes in the administration of affairs. On the subject of King's College they entered cordially into the views of the petitioners, and as the Report of this Committee continued for many years to form the text-book by which the Colonial Ministers professed to be guided in transmitting their instructions to the successive Governors, it may be proper to quote from its recommendations in reference to the University:

> "The attention of the Committee having been drawn to the establishment of the University of King's College at York, they thought it their duty to examine the Charter granted to that College. Of the great advantage which the establishment of a College, for the purposes of general education in Upper Canada, is likely to confer upon the Province, the Committee entertain the strongest conviction; they lament only that the institution should be so constituted as materially to diminish the extent to which it might be useful.
>
> "It cannot, they think, be doubted, as the guidance and government of the College is to be vested in the hands of the Members of the Church of England, that in the election of Professors a preference would inevitably be shown to persons of that persuasion; and in a country where only a small proportion of the inhabitants adhere to that Church a suspicion and jealousy of religious interference would necessarily be created."

The Committee then go on to recommend the establishment of two Theological Chairs for the Students of the Churches of England and Scotland respectively; but with respect to the President, Professors, and all others connected with the College no religious test whatever should be required.

> "That in the selection of Professors no rule should be followed, and no other object sought than the nomination of the most learned and discreet persons, and that (with the exception of the Theological Professors) they should only be required to sign a declaration that as far as it was necessary for them to advert in their lectures to religious subjects, they should distinctly recognise the truth of the Christian Revelation, but would abstain altogether from inculcating particular doctrines."

It has often been urged by the High Church party that the people of Canada being unable to appreciate the advantages of the religious and intellectual discipline pursued at Oxford and Cambridge, any attempt by them to interfere with the Constitution of King's College would be in the highest degree dangerous and unbecoming. Some guarantee for the safety and policy of the modifications demanded may, however, be found in the names of those individuals by whom this Report was framed, and as the foundation of much of their subsequent fame was formed at the revered Educational Institutions of England, it is probable that the meritorious parts of their system were not overlooked. Among the Committee were Mr. Huskisson, Mr. Wynn, Sir James Mackintosh, Mr. Wilmot Horton, the Solicitor-General, Mr. Vesey Fitzgerald, Mr. (now Lord) Stanley, Mr. Stuart Wortley, Lord Francis Leveson Gower, Mr. Baring, Lord Viscount Sandon, and Mr. Labouchere.

When the Report was laid before the House of Commons, Sir George Murray—a consistent Conservative and a prominent friend of the Church—had succeeded to the Colonial Department—and as he had personally visited Canada, and was therefore in a position to form a fair judgment of the character of the institutions which ought to be best adapted to the circumstances of the country, his opinion may be entitled to some weight.

"It appears," he said, "that the Committee object to the Constitution of the College, and recommend that in the selection of Professors no rule shall be followed, and no other object sought than the nomination of the most learned and discreet persons. In this view I concur. I think it would not at all interfere with the religious opinions of the Students that Professors should be chosen without reference to the Christian denomination to which they belong."

The opinion of the Colonial Secretary thus frankly avowed was acted upon practically in his instructions to the Lieutenant-Governor, under whose notice he brought "all the points recommended by the Committee." In his despatch to Sir P. Maitland, dated 28th Sept. 1828, he observed,—"It would be deservedly a subject of regret to His Majesty's Government, if the University, recently established at York, should prove to have been founded upon principles which cannot be made to accord with the general feelings and opinions of those for whose advantage it was intended." At the same time he suggested that any alterations in the Charter should be made through the representatives of the people, and in the mean time he directed that its operation should be suspended till such modification of its provisions was made. Further evidence of Sir George Murray's views on the subject of the University is obtained from a speech which he subsequently, and after he had quitted office, delivered in the House of Commons, and in which the subject of King's College is thus incidentally mentioned:—

"I have been desirous to remove as much as possible every grievance which pressed upon any portion of His Majesty's subjects, on account of their differing upon points of religious belief from the doctrines laid down by the Church of England. I wish, at all times to act upon the principles opposed to those of exclusion on account of religious differences of opinion. I could quote an instance indeed, in which in my public capacity I carried that principle into effect. A short time before I came into office, as Secretary for the Colonies, a Charter had been granted for founding a University at York in Upper Canada, which was to be established upon the exclusive principle of giving admission to a share in the government of it only to members of the Established Church. I objected to this. *That principle of exclusion once recognised in Canada under a Charter of the Crown, I thought we should be sowing in the new world the seeds of those very evils which had given rise to so many dissensions and occasioned so much conflict in the old.* I therefore urged that instead of establishing this College at York on exclusive principles, a College should be founded at Montreal,

E

in which no distinction should be made on account of religious differences of opinion. I was led to fix upon Montreal, partly on account of its central situation, and partly because it so happened that a sum of money had been left by a benevolent individual for the purpose of founding a Protestant Seminary for education at that place. This sum I wished to unite with the other, for the purpose of establishing a College at Montreal, for all classes of his Majesty's Canadian subjects, without any exclusion on account of religious opinions."

When Sir John Colborne assumed the administration, towards the close of the year 1828, the excitement on the subject of the University had gathered strength throughout the Province, and his Excellency soon perceived that it would be absolutely necessary for the peace of the country to effect some settlement of this irritating matter. The College Council had, in the mean time, been formed under the Charter, and as the materials of which it was composed, closely reflected the character of those who then monopolized the patronage of the Crown, the most determined resistance was made to the proposed modifications. In carrying out the instructions of the Colonial Secretary, to submit the Charter to the Legislature, it appeared to the Lieutenant-Governor to be advisable in the first instance to secure the co-operation of the College Council. The influence of that body in the Legislative and Executive Councils being paramount, it was easy to foresee that any measure of a liberal tendency which might be passed by the Assembly, would be defeated in the Legislative Council,—a majority of its members having seats at the Council Board of the University. Accordingly on the 12th Dec., 1828, a few days after he had entered upon the administration, his Excellency convened the College Council, and anxiously urged upon them the necessity of surrendering the Charter, which had been obtained upon misrepresentation and concealment of facts. He referred them to the Report of the Select Committee of the House of Commons, which characterized the Charter as a grievance—alluded to the positive instructions which he had received from his Majesty's Ministers to submit the Charter to the Legislature—invited the co-operation of the Council, in effecting the amendments; and he emphatically declared that in the event of their assistance being withheld, one stone should not be put upon another; and that he would concur in no measure to further the Institution while the obnoxious provisions of the Charter remained unaltered. In his speech on opening the Parliament, 8th January, 1829, alluding to his determination on the subject of the University, he said: "Measures will be adopted, I hope, to introduce a system in the Seminary that will open to the youth of the Province the means of receiving a liberal and extensive course of instruction."

In consequence, however, of the persevering resistance of the College Council, and their powerful influence in the administration, no measure for the amendment of the Charter was submitted to the Legislature; and the House of Assembly, thus disappointed in their expectations, after some delay addressed his Excellency on the subject, and with the view of possessing themselves of the necessary information, requested to be furnished with a statement of the funds which had been obtained and set apart for the erection of the University, and of the appropriations made from and out of those funds. On 20th March, 1829, a set of resolutions, embodying the sentiments of the members, on the subject of the University, were severally put and unanimously carried.

The importance of these resolutions, as indicating the wishes of the country at that time, is increased in consequence of the principles contained in them having been, at a later period, adopted as the foundation of a legislative measure which passed through the Assembly, but was defeated in the Legislative Council.

"*Resolved*—That the thanks of this House are due to his Majesty for his gracious intentions in erecting and endowing a University in this Province.

"*Resolved*—That much erroneous information has been communicated to his Majesty's Government upon that subject, under which misinformation this House apprehends the Charter was granted with provisions not suited to the conditions and wishes of the people for whose benefit it was intended.

"*Resolved*—That the provisions requiring the President of the said University to be a Clergyman in Holy Orders of the United Church of England and Ireland, and to hold his office during pleasure, is highly inexpedient, because in the only Seminary of general learning in the country all collegiate offices and literary rewards should be conscientiously awarded according to moral and intellectual merit, should be enjoyed under no dependent tenure, and should be held forth as incentives to all candidates for academic honours, without making such honours subservient to favouritism.

"*Resolved*—That it is for the above reasons highly inexpedient that the Archdeacon of York, for the time being, by virtue of his office, should be at all times President of the said University.

"*Resolved*—That the provision requiring the President and the seven Professors constituting the College Council to be members of the said Established United Church, and to subscribe the Thirty-nine Articles, is highly inexpedient.

"*Resolved*—That the Chancellor, President, and members of the Council, the Professors and other teachers of the said University, ought, after the organization of the same, to be elected by a Senate composed of the members of the Council, and others who have taken a degree in the said University above Bachelor of Arts, having their names on the Books of the College, such election to be made from the graduates from the said University, or from the graduates from the Universities of England and Ireland, or Scotland, of sufficient standing in their respect as Universities to be candidates for such office or trust.

"*Resolved*—That it is expedient that the degree of Doctor of Divinity should be confined to those who subscribe to the Thirty-nine Articles of the said Established United Church, but that it should be attainable by all graduates, who, professing the Christian faith, shall, after due and impartial public examinations in the public Schools of the said University, evince the theological, biblical, or other learning and qualifications proper to be required by candidates for such an honour.

"*Resolved*—That it would be expedient if the teaching of Doctrinal Divinity were confined to the examinations of the Students, by questions put by the Professor out of the Bible, in the same manner as the classics of the University of Cambridge are examined upon, and taught any science out of standard authors, leaving discretionary latitude to the Professors only in lecturing on biblical criticism, theology, evidences of Christianity, sacred history, and whatever collateral branches of learning may be appointed for candidates for Holy Orders; by which means would be obviated the principal difficulties apprehended from the same Professors being the instructors of Students professing the faith of different denominations of Christians.

"*Resolved*—That whatever in the said Charter in any degree gives a sectarian character to the said University, ought to be wholly done away.

"*Resolved*—That with the exception of the exclusive and sectarian principles and unequal distribution of wealth prevailing in the Universities of Oxford and Cambridge, it is highly expedient to follow their institutions and modes of instruction, making from time to time such modifications as experience may point out.

"*Resolved*—That without the patriotic, disinterested and impartial conduct of those to whose wisdom and management the money of this Institution shall be confided; without a strict observance of economy in the whole system; without inducing from Great Britain and Ireland, Professors of acknowledged learning and worth, liberally paid, but not with that extravagance which would merge the rewards of honour in the sordid expectation of pecuniary gain, and without making grandeur of schemes and appearance yield to immediate practical and extensive utility, the University cannot gain public confidence, or realize the gracious intentions of His Majesty."

These Resolutions were presented to his Excellency with the following Address:—

"We, His Majesty's dutiful and loyal subjects, the Commons of Upper Canada, in Provincial Parliament assembled, humbly request your Excellency's favourable attention to the Resolutions accompanying this Address, and we further humbly thank your Excellency for the interest your Excellency has manifested for the promotion of education in this Province in a way suited to the wishes, feelings, and genius of the people."

The Lieutenant-Governor thanked the Commons for this Address, and assured them that he would not fail to give immediate attention to the Resolutions which accompanied it. The Session having forthwith terminated, no further proceedings took place in reference to the University.

Before the opening of the next Session, Sir John Colborne applied himself with energy in obedience to the instructions which he had received from His Majesty's Ministers, to effect a modification of the Charter. Anxious still that this should be done with the friendly co-operation of the College Council, and aware that without this co-operation any attempt to liberalize the Institution would be defeated in the Legislative Council, he renewed his urgent entreaties to have the Charter so rendered. His exertions, however, having proved unavailing, he was at length compelled to suspend the operations of the Charter, and to direct his energies to such ameliorations in the defective system of Education which then prevailed in the Province as would best remedy the evils which the obstinate conduct of the College Council might inflict on the country. In opening the Parliamentary Session on 8th January, 1830, he thus earnestly alluded to the opposition which he had received from that body, and to the defective state of Education throughout the Province:—

"The delay that may take place in revising the Charter of the University, or in *framing one suitable to the Province, and to the intention of the endowment*, must, in fact, under present circumstances, lead to the advancement of the Institution, as its use depends on the actual state of Education in the Province."

The Address of the House of Assembly in answer to his Excellency's Speech, thus notices allusions to Education:

"We are glad to find that your Excellency still contemplates a modification of the Charter of King's College, which as at present constituted, is undeserving of public patronage, and likely to awaken sectarian jealousies and prove equally injurious to the purity of our religion and to the liberties of our people.

"While we are willing to support a College for instruction in the professions, and in the higher branches of science, we feel it to be a primary and more important duty to provide for the general diffusion of the means of Education among the people in every township. But we concur with the opinion expressed by your Excellency, that dispersed as the population is over an extensive territory, a general efficiency in the Common Schools cannot be expected, particularly while the qualifications of the Masters, nor the small remuneration which their patrons, in the present condition of the country, can afford to give, will not admit of their devoting their whole time to their useful calling.

"From these considerations we feel the increased necessity and duty of securing, besides the sums already provided by law, a more equal and just distribution of the proceeds arising from the lands reserved for Education, from which resources the people have hitherto derived no advantage."

The House of Assembly, at the same time passed the following Resolutions, declaratory of its determination to resist the exclusive policy which had evinced itself on the part of the High Church party composing the Administration:

"*Resolved*,—That the Christians of various denominations in this Province have been deeply wounded in their feelings by the false and calumniating statements made for the purpose of establishing an exclusive and proselyting system, which has hitherto been attempted to strengthen and extend by rendering education subject to the patronage of the Executive Government, and the unjust appropriation of the School Reserves, for the support of a University against the sectarian character of which this House can in all conscience continually to protest as they already have done.

"*Resolved*,—That there justly is, in the minds of the people of this Province, a strong and settled aversion to a dominant Church connected with Government, and upheld by that Government in a claim to a monopoly of the Clergy Reserves, and to the enjoyment of peculiar privileges to the exclusion and prejudice of various denominations in this Province."

Notwithstanding the symptoms of weakness and vacillation which frequently exhibited themselves in Sir John Colborne's administration of the Government, it is but just to admit, that his personal views and designs, when unobstructed by the influence of the baneful oligarchy which at that time incubated on the Province, evinced a sincere desire for the prosperity of the country. To the cause of education in particular he devoted much of his attention and energy, and it is probable that he might have succeeded in effecting a considerable amelioration of the defective system which then prevailed, had his plans not been frustrated and overruled by the illiberal and false opposition of Dr Strachan and his intolerant party. The provisions which had been from time to time made by the Legislature for the diffusion of instruction among the people were rendered completely nugatory by "the scheme," which the Archdeacon of York in a moment of incautious vanity divulged to the Society for the Propagation of the Gospel. He had truly been "*instrumental in establishing a scheme in Canada, by which the education of the whole population was virtually under the direction of the Church*;"—and from which, he might have added, the people generally derived scarcely a larger amount of benefit than the pleasant gratification of seeing the pecuniary necessities of the Venerable President of the Educational Board relieved by an annual stipend of £300 from the Parliamentary grant. It formed no part of "the scheme" of this disinterested patron of learning, to permit any of the classes who contributed so largely towards the maintenance of the Schools to participate in their superintendence. The exclusive control was monopolised by the members of the Episcopal Church, and the appointment of Trustees from one communion alone has occasioned so much jealousy and bitterness, that the Schools had sunk into a deplorable state of inefficiency which reflected deep disgrace upon the Province.

Sir John Colborne was fully alive to the defects and corruptions under which the system laboured, and to the absurdity of establishing a University for the higher branches of learning, while the children of the yeomanry were exposed to the evils and dangers of almost unmitigated ignorance. It was indeed abundantly apparent that the country, as it then existed, would derive a greater amount of benefit from the general diffusion of the means of instruction, and that the objects of the Royal Grant would be more effectually promoted, if a liberal education could be placed within the reach of the people, than if the endowment were applied to the establishment of a great metropolitan seat of learning, for which the youth of the Province were not fitted by a proper preparatory course. The first efforts of the Lieutenant-Governor were therefore directed to an extension of the Common and District Schools, and to a more liberal system of management and tuition. But these benevolent designs did not meet the approval of Dr. Strachan and his party, and his Excellency was compelled to succumb to their superior influence. Unwilling, however, to relinquish his plans altogether, he took an intermediate course, and submitted to the College Council a proposal for the establishment of an Academy of a superior class at York, which might at least prepare the children of the higher ranks for the advantages of the University. This proposal having met with no opposition, his Excellency, by Message, submitted his plan to the House of Assembly:

"The Lieutenant-Governor has no doubt that it would be deservedly a subject of regret to his Majesty's Government if the principles on which the University is founded cannot be made to accord with the *general feeling and opinion of those for whose advantage it was intended*; and he believes the first change in the Charter which should be recommended, and which would conduce more than any other to its becoming eminently useful to the Province, is the connecting the Royal Grammar School with King's College, in such a manner that its Exhibitions, Scholarships, and chief support may depend on the funds of that endowment.

"The advantages that will result from an Institution conducted by nine or ten able masters, under whose tuition the youth of the Province could be prepared for any profession, are indisputable; and if such a School were permanently established, *and the Charter so modified that any Professor shall be eligible for* the Council, and that the Students in the College shall have liberty and faculty of taking degrees in the manner that shall hereafter be directed by the statutes and ordinances framed by his Majesty's Government, the University must flourish, and prove highly beneficial to the Colony."

This proposal having been acceded to, the Royal Grammar School was superseded, and Upper Canada College was opened on 4th January, 1830, for the purposes of tuition. An endowment of 60,000 acres was afterwards procured for its support from the residue of the general School Lands, together with the site of the College, and other valuable town lots, and by means of the aggregate funds that were expected to accrue from these sources, and from the fees payable by the Students, it was fully expected that under a proper system of management, a sufficient income would be derived for the proper maintenance of the Establishment. How far these expectations have been realized will form a matter for future enquiry.

* * *

CHAPTER IV.

THE AMENDED CHARTER.

The reform of the University now became intimately connected with another question, which had already created much excitement and irritating discussion, and which was destined to have a material influence on the future peace and welfare of the Province. By the Imperial Act 31, Geo. III., ch. 31, one-seventh of the granted lands in Upper Canada had been set apart for the support of a Protestant Clergy. This ecclesiastical provision had, under the phrase of "a Protestant Clergy," been heretofore limited by the Government to the United Church of England and Ireland. A claim was at length put in by certain members of the Church of Scotland to a share of the provision, and this claim was afterwards accepted and insisted on by the other Protestant denominations in the Province. The appropriation by the Government exclusively to one Church, or the extension of it to others, thus became a question of almost absorbing public interest. The House of Assembly repeatedly offered strong remonstrances against any favour or assistance on the part of the Government to one or more religious denominations which was not equally bestowed upon all; and the principle of religious supremacy and exclusion in favour of the Church of England, contained in the Charter of the University, appeared to the members of that body as a part of a system conducive to the extension and perpetuation of an injurious policy, inconsistent with that perfect equality of rights and privileges to which it was thought Christians of all denominations in the Province were entitled. In conformity with these views the Assembly on 12th March 1831, caused the following address to be prepared and transmitted:

"TO THE KING'S MOST EXCELLENT MAJESTY.

"Most Gracious Sovereign,—

"We, your Majesty's dutiful and loyal subjects, the Commons of Upper

Canada in Provincial Parliament assembled, beg leave most humbly to submit to your Majesty, that by an Act of the Parliament of Great Britain, 31st Geo. III., one-seventh of the lands of this Province was set apart for the support of a Protestant Clergy.

"That under that act appropriations have from time to time been made, and which appropriations are, in this Province, known by the name of the 'Clergy Reserves,'—that these appropriations having been generally made in lots of two hundred acres throughout the several Townships of this Province, the value of the same has been much enhanced by the settlement of the country, and principally from the improvement of the lands in the neighbourhood of such appropriations, by the labour of inhabitants composed of various denominations of Christians;—that these Reserves being so interspersed with the lands of actual settlers, have materially retarded the improvement of the country;—that by an act passed in the reign of his late most gracious Majesty, provision was made for the sale of a portion of these Reserves;—that it is unjust as well as impolitic, to appropriate the said lands to the support of any one Church exclusively, and it is extremely difficult, if not altogether impracticable, to apportion or divide the same among the Clergy of all denominations of Protestants;—that a large majority of the inhabitants of this Province are sincerely attached to your Majesty's person and government, but are averse to the establishment of any exclusive or dominant Church;—that this House feels confident, that to promote the prosperity of this portion of your Majesty's dominions, and to satisfy the earnest desire of the people of this Province, your Majesty will be graciously pleased to give the most favourable consideration to the wishes of your faithful subjects;—that to terminate the jealousy and dissension which have hitherto existed on the subject of the said Reserves—to remove a barrier to the settlement of the country, and to provide a fund available for the promotion of Education, it is extremely desirable that the said lands, so reserved, be sold, and the proceeds arising from the sale of the same placed at the disposal of the Provincial Legislature, to be applied exclusively for that purpose. We therefore humbly pray that your Majesty will be graciously pleased to recommend to your Majesty's Parliament of Great Britain and Ireland to pass an act to authorize a sale of the Clergy Reserves remaining unsold, and to enable the Legislature of this Province to appropriate the proceeds thereof in such manner as may be considered most expedient for the advancement of Education.

"We also most humbly beg leave to submit to your Majesty that while we fully appreciate the gracious intention of our late revered Sovereign to promote education, by granting a Royal Charter for the establishment of an University in this Province, we feel it incumbent on us to represent, that as the great majority of your Majesty's subjects in this Province are not members of the Church of England, it is matter of regret that the Charter contains provisions which are calculated to exclude from its principal offices and honours, all who do not belong to that Church.

"The consequence of these provisions, the benefits of the Institution will be confined to a favoured few of one religious denomination, while others of your Majesty's subjects, equally loyal but dissenting, will be excluded from participating in advantages which should be open to all. Its influence, as a Seminary of learning on this account, must be limited, and will be looked upon with jealousy by a large majority of the inhabitants of this Province. We therefore humbly pray that your Majesty will be graciously pleased to cause the Charter of King's College to be cancelled and to grant another, free from the objections to which our duty to the people of this Province has induced us to advert."

This address was transmitted to the King by Sir John Colborne, who, on

receiving it, then announced to the House his instructions on the subject of the University.

"Gentlemen,—I will forward this Address to the King immediately. It may, however, be satisfactory to you to receive the information, that I have reason to believe that either the exclusive provisions considered exceptionable in the Charter of King's College have been cancelled, or that such arrangements have been decided on by his Majesty's Government, as will render further application on this subject unnecessary.

"A Charter, solemnly given, cannot be revoked without much delay and circumspection; but his Majesty's Ministers have long directed their attention to the great advantages which the Province will derive from an University being established on principles that may be approved of by every good and enlightened person."

Meanwhile the excitement on the subject of the University continued unabated throughout the country. At a public meeting held at York, on 10th December, 1830, a Petition to the British House of Commons was adopted, and before being transmitted, received upwards of 10,000 signatures. This Petition embraced the subject of the Clergy Reserves, and prayed a modification of "the Charter of King's College, established at York, in Upper Canada, so as to exclude all sectarian tests and preferences, and to appropriate the proceeds of the sale of lands heretofore set apart for the support of a Protestant Clergy, to the purposes of general education and various internal improvements."

An Agent was appointed to carry this Petition to London, and on the occasion of its being presented to the House of Commons, Sir George Murray observed,—

"I trust that the sentiments which I have always entertained upon the subjects to which this Petition relates are sufficiently well known to the House. *I concur that nothing can be more unfortunate for any State than that political distinctions should be founded on differences in matters of religion. I believe that these distinctions can never arise, except when religion has been made subservient to the selfish interests and to the worldly passions of men.* I agree entirely in the objection which has been taken to that part of the Charter of King's College, which introduces a distinction on the score of religion. While I was in office I suspended the operations of the Charter, *having it in contemplation to abolish entirely that distinction; and had I remained in office, I should certainly have done so.*"

Copies of the Canadian petition to the House of Commons, and of the proceedings and resolutions of the House of Assembly, were at the same time laid before the Colonial Secretary.

These proceedings had the effect of turning the immediate attention of the British Government to the danger of the exclusive policy which had been pursued under the erroneous statements and evil counsel of the Archdeacon of York. His Majesty's Ministers at once saw the necessity of concession, and endeavoured to retrace the false step that had been made, by giving their formal sanction to the modification which had been proposed by the Assembly. With this view his Excellency Sir John Colborne was instructed to bring the matter before the College Council, and to insist upon a surrender of the Charter, in order that it

might be modified by the Provincial Parliament, in such a manner as would adapt it to the situation of the country and the wishes of the people.

Acting upon these instructions, the Lieutenant-Governor convened the College Council on 2nd November, 1831, and laid before them a Despatch from Lord Goderich, then Colonial Secretary—in which his Lordship referred at considerable length to the original purposes of the grant, and the design of the British Government in establishing a University. He observed that "it is greatly to be regretted *that any thing in the constitution of the establishment should have tended to counteract, if not defeat that laudable design, and practically deprive the Province of the advantages anticipated.*" "*It cannot be denied,*" he continued, "*that the exclusive and restrictive character given to King's College University has had this effect.*" His Lordship then alluded to the suggestions of the Committee of the British House of Commons in 1828, which had been transmitted by his predecessor in the Colonial Office, with the view of their forming the basis on which the constitution of the University should be established; and he earnestly recommended that the course then advised by his predecessor should now be pursued. He also signified *his approval of the Resolutions adopted by the House of Assembly in 1829*, quoted in the preceding chapter, and requested that the College Council should immediately surrender the Charter that it might undergo such modifications as the Parliament of Upper Canada should determine; but in requiring such surrender he pledged himself to the Council that the endowment should be applied to no other purpose than that of education.

The advice thus frankly offered, and the request contained in the despatch of of the Colonial Secretary, were obstinately declined by the College Council, who, in a lengthy report, framed in answer to the despatch, maintained their position with a reckless tenacity, which, at the present day, might excite surprise, were the fact not sufficiently explained by the overwhelming influence which its members possessed in the Executive and Legislative Councils of Upper Canada. Hitherto the obstacles interposed by the College Council—who had been long the prominent leaders of the High Church party—to the diffusion of general instruction had proved most disastrous to the country. It was quite obvious to every one, the the continuous use of means accruing from a productive endowment on an exclusive Seminary beneficial only to a few, so long as the elementary Schools, owing to the unproductiveness of their endowment from causes beyond control, were in a state of comparative destitution, was a proceeding not only inverting the order of the entire scheme, but eminently calculated to create a dissatisfied and invidious feeling on the part of a large portion of the community. So long indeed as means were wanting for a scale of elementary instruction commensurate with the increasing demands of the country, the prior formation of a metropolitan seat of learning, irrespective of its exclusive character and constitution, was viewed with jealousy and disfavour even by those who, under more propitious circumstances, would have hailed its establishment and would have been well satisfied to see it in active operation. The functions of the General Board of Education—which for nearly eight years had been a libel on the name that it bore—ceased in 1833, and with its demise the salary of the Venerable President, which during the same period had yielded him no less a sum than £2,250, also ceased to be exigible. The Archdeacon of York, however, whose genius was ever fertile in expedients, and whose zeal in the cause of education has always borne an affectionate approximation to the pecuniary advantages which he has derived as a "Patron of Learning," naturally directed his restless energies to the University, as a compensating source of emolument. Holding the office of President, with the exclusive honour of being the only salaried member of the Council, he regarded with dismay every modification of the Charter which could have the most remote tendency to endanger his sinecure, an effect by no means unlikely to have followed from the admission of the Dissenters to a share in the government, and a conscientious administration of the affairs of the Institution.

So long as this serious obstacle remained, all conciliatory attempts to obtain the consent of the College Council to the modifications required by the people of Canada signally failed, and the Colonial Secretary at length became convinced that no concession would be made to which the Council were not driven by the last necessity. The Archdeacon of York had previously distinguished himself as an energetic and powerful opponent to the formation of the Canada Company, and through his zealous interference its operations had been materially retarded. It was at length, however, agreed, on the understanding that his personal opposition to the Company should cease, that an annuity of £1,000 for 16 years should be given from the funds of the Company in aid of the University Buildings. This grant had been paid for four and a half years, but was suspended by Lord Goderich—who penetrated the design of the College Council to maintain their position so long as they were provided with available funds,—until the Legislature should pass a Bill amending the Charter. In the despatch of 8th July, 1832, by which he suspended the grant from the Canada Company, he placed the remodelling of the University entirely in the hands of the Provincial Parliament, whose claim he distinctly recognised "to exercise the management of the territorial grants assigned for the purposes of education, it being assumed, from their having in questions of this nature the deepest share of interest, that they are therefore the most competent to judge of what is best adapted to the progressive wants and wishes of the community which they represent." His Lordship further observed, that "*when a change of this nature is desired by the inhabitants themselves, and is called for by an address from their representatives I am of opinion that if there were nothing else to be considered than the accomplishment of the immediate object it would be desirable to comply with wishes which have been so expressed.*" Beyond enjoining that the funds of the endowment thus placed at the control of the Provincial Legislature should not be diverted from their governing object—the promotion of education—Lord Goderich did not think it expedient to prescribe any set regulations for the practical application of those funds, his Lordship observing "*that it would be worse than useless to destroy the grace of the concession which had been made, by attempting to clog it with objectionable conditions.*"

The Despatch from which the above quotations have been made, was marked "Confidential;" but if any doubts remained as to the intention of the British Government on the subject of the University, they were satisfactorily removed by Lord Goderich's celebrated Despatch to Sir John Colborne, of 5th November, 1832, which was laid before the *Provincial* Parliament. In reference to a proposal which had been made to place King's College on the list of corporate bodies enjoying the elective franchise, his Lordship thus expressed himself: "You will observe that I do not here refer to an University constituted in the manner proposed in the *original* Charter of Incorporation. Every man in Canada, however, knows, *that so far from any anxiety having been felt by the King's Government to maintain that Charter against the wishes of the great majority of the people, every possible measure has been taken to refer to their Representatives the decision of the question, on what form and upon what principles the College should be founded.*" And in the same Despatch, after reprobating a policy which would consign the children of the yeomanry to ignorance lest knowledge should render them independent in action and in thought, his Lordship proceeds: "On the contrary, there is no one object connected with every part of his Majesty's dominions, which his Majesty has more at heart than the diffusion of sound knowledge in the legitimate and most enlarged sense of that term. This is not merely the first and highest interest of society, but is essential to the right use and peaceable enjoyment of every other civil and social privilege." And he thus points to the constitutional remedy for the abuses of King's College, which his Majesty's Ministers were now most anxious to see relieved of every sectarian restriction:—

"*The Legislature of Upper Canada have already been invited to consider in what manner the University can be best constituted for the general advantage of society*; and His Majesty has studiously abstained from the exercise of his undoubted prerogative of founding and endowing Literary or Religious Corporations, until he should obtain the advice of the Representatives of the people for his guidance in that respect." "All minor distinctions should be merged in a general union for the important end (the diffusion of Education), and at the head of that union the local Government should be found encouraging and guiding, and to the utmost of its power assisting all the efforts which may be made to create or to foster a taste for intellectual enjoyments and pursuits." "Confident in your own concurrence and in that of the members of the Legislature in these views, *I cheerfully remit to you and to them the office of digesting the necessary plans for reducing the general principle into a definite shape*, requiring of yourself in the first instance only, that you should quicken the attention of the Legislative Council and Assembly to this subject, should you have reason to apprehend that it is in danger of being overlooked or forgotten."

In opening the Parliament on the 19th November 1833 His Excellency Sir John Colborne thus communicated his instructions to the Legislature:—

"The important subject of public Education, which has in several Sessions occupied much of your attention, demands your early notice and consideration, particularly the questions which relate to the revision of the system of Township Schools—the application of the proceeds of sales of School Lands for the support of superior District Schools, and the requisite extension of the Royal Charter under which the University is at present established. With respect to these points, and the immediate course which you may suggest to ensure the opening of the University, sanctioned by a Charter framed on more comprehensive principles than that which has been granted, there can be no doubt, that as the Province is fully prepared to reap the benefits which were intended to be conferred on it by the establishment of King's College,—*His Majesty will readily give effect to any measures proposed by you regarding its future government* and the appropriation of School Lands that may tend to promote the purposes of the Institution, or add to the advantages which the Colony under the blessing of Providence, enjoys, by facilitating the diffusion of Education among all classes."

To this address, the House of Assembly answered that they would "use diligence in considering and maturing the requisite extension of the Royal Charter under which the University is at present established and His Excellency's assurance, that His Majesty will readily give effect to any measures proposed by us regarding its future government, and the appropriation of the School Lands to meet the purposes of Education, is an additional proof of His Majesty's paternal care for the advancement of the most important interests of his subjects."

No Legislative measure affecting the constitution of the University was introduced into the Assembly during that Session; but at length in the Session of 1834-35, a Bill to amend the original Charter was framed upon the principles contained in the Resolutions of the House in 1829, which had received the approval of the Colonial Secretary.

This Bill proceeded on the preamble that, "Whereas his present Majesty has been graciously pleased to satisfy through His Majesty's principal Secretary of State for the Colonies, Earl Ripon, by his despatch of the 8th November 1832, communicated to the Legislature by His Excellency, by message, that so far from any unwillingness having been felt by His Majesty's Government to maintain the said Charter against the wishes of a great majority of the people, every possible measure has been taken to refer to their Representatives the decision of the question in what form and upon what principle the said College should be founded." The Bill then declared that from thenceforth it would not be necessary for the President and Professors to be members of the United Church of England and Ireland, or that they should subscribe the Thirty-nine Articles:—That the Council should consist of twelve persons, one half of whom should be nominated by the Legislative Council, and the other half by the Legislative Assembly; and that they should hold their office for three years:—That the College Council should elect the Professors, Tutors, and Lecturers:—That the College Council should make rules and ordinances for the government of the University, subject to the approbation of the Chancellor:—That no rules or ordinances should be passed by the Council imposing on the Professors, Tutors, Lecturers, Scholars, Graduates, under-Graduates, Students, Servants or others, any religious belief or mode of worship, or in any way whatever restraining them from attending on the Sabbath whatever place of religious worship they chose:—That no religious test or qualification whatever should be required of the Chancellor, President, Professors, Tutors, Lecturers, Scholars, or other persons being candidates for any situation or honour in the College:—That there should not at any time be allowed to be within the College any public Professor, Lecturer, or Teacher of Doctrinal Divinity, according to the Articles of Faith professed by the United Church of England and Ireland, or according to the Creed or Faith of any other Christian or Religious Church whatever:—And that the College Council should not apply any of the funds belonging to the University to the support of any public Professor, Lecturer, or Teacher of such Divinity.

The Bill was carried through the House of Assembly by a majority of 33 to [illegible]. Among the majority were nine members whose views on other subjects were directly opposed to those of the liberal party; but so strong was the feeling throughout the country in favour of the measure, and so convinced were the members themselves of the flagrant injustice of planting exclusive educational Institutions among so varied a population as Canada contained, that the various resolutions submitted to the House, in successive Sessions and Parliaments, had been adopted with all but perfect unanimity. The delay that took place in effecting their object was occasioned solely by the obstinate resistance made by the College Council and total indifference of the local Government to popular opinion. The influence of the Executive in the Legislative Council was such that the persons composing the former could, at any time, either put a stop to the most wholesome measures, or forward to the utmost extent the sinister schemes of any party whom they wished to favour. The Executive and Legislative Councils were indeed two bodies in name, but one in fact—the persons composing the one being the majority in the other—and each being alike irresponsible to the country. Under such an administration and antagonism of principles and interests, in the different branches of the Legislature, it was utterly impossible that the system of Civil Government could effectually promote the prosperity of the Province, or that wholesome measures could be passed suitable to the wants and happiness of the people. The history of the University of King's College shews that the British Government had no wish to govern Canada, but in accordance with the wishes of the great majority of the people, where these wishes were perfectly known and understood; but the proper influence of the British Government was at that time comparatively unfelt; and the successive Governors, after a brief show of resistance, tamely submitted to the all-ruling influence of the local oligarchy. In this manner the Bill for opening the University to all classes and denominations, although urgently and almost unanimously demanded by the people, was destined to share the fate of almost every other measure of a popular character. It was thrown under the table of the Legislative Council; and the ardent expectations of the country were disregarded with the reckless indifference of a party long habituated to trample upon popular rights.

The arrival of Sir Francis Bond Head in 1836, and the general tenor of his instructions, again excited the hopes of the friends of popular Government. The distinct recognition which these instructions contained of the right of the Provincial Parliament to legislate on the subject of the University, and the desire evinced by the British Government to have the Educational Seminaries adapted to the circumstances of the country, afforded the highest gratification to the friends of

Education.—Respecting the Collegiate Institutions of the Province—a complaint having been made by the Assembly that Upper Canada College was upheld at great public expense, with high salaries to its principal Masters—Lord Glenelg observed in his Despatch of 5th December, 1835:—

> "His Majesty's Government can have no wish to retain any charge for this Establishment, which may be more than adequate to provide for the effective performance of the duties of the Teachers. Any wise retrenchment of that nature may, subject to the principles already mentioned, be immediately introduced. That the Province derives little benefit from this College, is a fact of which the explanation is to be found, not in the principle of the Institution itself, but in some error of management, susceptible, as it should seem, of an easy remedy.
>
> "On the subject of King's College,—an unfortunate difference of opinion exists between the Council and the Assembly, which each of these bodies concurs in pronouncing incurable.
>
> "His Majesty commands me to tender, through you, his mediation on this subject. With the previous assent of both Houses, the King will cheerfully resume the consideration of the question, in what manner a Charter could be most conveniently prepared, so as to promote the interests of Science and Literature, and the study of Theology and Moral Philosophy, with a due regard to the opinions which seem to prevail in the Province, respecting the proper constitution and objects of an University. But after having distinctly referred to the Local Legislature the duty of giving effect to their own wishes on the subject, in the *form of an Act of General Assembly*, his Majesty cannot, at the instance of one only of the two Houses, withdraw it from their cognizance."

Lord Glenelg's instructions to the Lieutenant Governor were laid before the Assembly, but events of a more pressing nature soon absorbed the attention of the Province, and the subject of University Reform was for a time laid aside. The contest between Sir Francis Head and the House of Assembly, respecting the responsibility of the Executive Council, created a serious rupture, which ultimately led to the refusal of the supplies, and terminated in the dissolution of Parliament. Whatever the real merits of that contest may have been, it is certain that in consequence of the extraordinary course then pursued by the Lieutenant Governor, the tone and character of the next House of Assembly did not reflect the true state of popular feeling on many of the important questions which had previously agitated the country. No change had exhibited itself in the sentiments of the people on the subject of the University, but the elections had been decided on a question of a more exciting character—a mere cry, indeed, of itself, but sufficiently plausible to afford available capital for Government agitation. The question of "British Connexion" was represented as depending on the votes of the electors at the Hustings—and so successfully was the country deceived by a mere electioneering trick of the Government, that many individuals whose loyalty would otherwise have been far above suspicion, were deprived of their seats on account of their strenuous maintenance of popular rights. Notwithstanding the personal aversion, however, entertained by the majority of the new Parliament to interfere with the Charter of the University, the necessity of some alteration in its constitution was forced upon them by the prevailing sentiments of the country, and the modifications effected, however reluctantly admitted and injudiciously made, at least settled the great principle for which the people had so long and anxiously struggled—the right of all classes and denominations to a full and free participation in the benefits of the Institution.

In November, 1836, a Committee consisting of Messrs. Draper, Burwell, Allison, Sherwood and Cameron, were appointed to frame a Bill which would meet the demands of the country without being obnoxious to the illiberal principles of the Legislative Council. The Committee accordingly reported a Bill to amend the Charter of King's College; and as the principle upon which this measure was framed will claim some importance in the argument which it is proposed, in a subsequent chapter, to deduce from the historical sketch which has been given, it is proper to quote the principal amendments.

After reciting the original Charter, the Bill enacted that the Judges of his Majesty's Court of King's Bench should, for and on behalf of the King, be Visitors of the College, in the place and stead of the Lord Bishop of the Diocese of Quebec, for the time being, and that "the President of the said University, on any future vacancy, shall be appointed by his Majesty, his Heirs and Successors, *without requiring that he should be the Incumbent of any Ecclesiastical office;* and that the members of the College Council, including the Chancellor and President, shall be twelve in number, of whom the Speakers of the two Houses of the Legislature of the Province, and his Majesty's Attorney and Solicitor General for the time being, shall be four, and the remainder shall consist of the five Senior Professors of Arts and Faculties of the said College, and of the Principal of the Minor or Upper Canada College; and in case there shall not at any time be five Professors as aforesaid in the said College, and until Professors shall be appointed therein, the Council shall be filled with members to be appointed as in the said Charter is provided, *except that it shall not be necessary that any member of the College Council to be so appointed, or that any member of the said College Council, or any Professor to be at any time appointed, shall be a member of the Church of England, or subscribe to any Articles of Religion, other than a declaration that they believe in the authenticity and divine inspiration of the Old and New Testaments, and in the doctrine of the Trinity;* and further that no religious tests or qualifications be required or appointed for any persons admitted or matriculated as Scholars within the said College, or of persons admitted to any degree or faculty therein."

The Bill passed both Houses of the Legislature without opposition, and received the Royal Assent on 4th March, 1837.

The principle of perfect religious equality among Christians professing the doctrine of the Trinity thus recognised by the Legislature in the abandonment of the Episcopal test in the Amended Charter, was supposed to have terminated the struggle for religious freedom in this great educational institution. The University was substantially divested of the Episcopal character imposed upon it by the original Charter and the special claim of any religious denomination to exclusive privileges and patronage was intentionally barred. Unfortunately for the

Institution the individual, whose persistent hostility to popular freedom and the rights of conscience will give to his name an unenviable prominency in the civil and religious annals of this Province, was left by the Amended Charter at the head of the management; and thus the struggle which the people fondly believed to have been terminated by the interposition of Parliament, was renewed and maintained with hostility as determined, and zeal and energy as persevering as ever on the part of those whose duty it was to carry the principles on which the University was finally established into operation. The supposed termination of the public contest for principle which appeared to make a full recognition of the rights of all denominations of Christians in the Charter, was a mere truce, that the battle might be fought on different ground. The scene of operations was merely changed from the Parliament of the Province to the Council Board of the University. But before we transfer the combatants to this new arena, in which some remarkable manifestations of character have been made, it is befitting that we briefly review the ground over which we have travelled.

In a more discursive history of the University of King's College, the intimate connexion of that institution with the agitating questions of education and religion, which have for so many years disturbed this Colony, should have been exhibited more fully than the preliminaries of the present sketch have permitted. And this might easily have been done, by setting forth on the one hand the contemporaneous struggles of the people to obtain for themselves absolute freedom of thought and action in matters of faith and government, with equal advantages to Christians of all denominations, so far as education and civil rights were involved; and on the other, the attempt, openly and steadily persisted in by a dominant compact, to introduce and perpetuate in this Province a dominant Church and a negative persecution of what that Church chose to denounce as heterodoxy.

When the Clergy Reserves were set apart, it is possible that the formation of a dominant Church established on the model of the Church of England may have been intended—and had such an intention existed, it would appear to us only as the natural offspring of the state of religious intolerance, which prevailed in most nations of Europe, where for centuries past religious struggles were not for equality, but for domination; and where each sect, without even professing toleration, sought either to maintain itself as the national Church, or to reform that Church on its own model. The Presbyterian form of worship and discipline, after a futile attempt to force itself upon England, retired into the Church of Scotland, and left Protestant Episcopacy the national English religion. The same Sovereign, from the necessity of the case, became the earthly head of two antagonist Churches, sworn to preserve and maintain them both; and when the question arose as to who should stand in the place of a national Church in this Province, the Church of England, as by law established, may have been solely intended, or the national Church of Scotland as equally by law established may have been contemplated as co-existent with the Church of England. At all events the law in setting apart the Clergy Reserves for a "Protestant Clergy," left the matter entirely open. But the Church of England decided the question for herself, that she had exclusive claim to a true Protestant Clergy, and thus got possession of the appropriation.

The original claim of the Church of England to the School Lands did not indeed rest upon the *prima facie* title by which she maintained her right to the Clergy Reserves. For in that case the endowment was placed in the hands of the Legislature for the purposes of *general* education—while in the former it was granted with a restriction which seemed to favour her pretensions. Her claim to the School Lands therefore could only be maintained on her assumed right as an Established Church to have the exclusive direction of popular education.

The first attempt at resistance to her monopoly of the Clergy Reserves arose on the part of the members of the Church of Scotland in Canada, who claimed that their Clergy were Protestant—and not only Protestant, but actually so, as *by law established*. Both the contending parties forgot that it was the people of England, and the people of Scotland, respectively, who, after many years of bloody contention, established their Churches in their respective kingdoms—and that what should thereafter be the national Church in the American Colony, if it should ever have one, depended not upon the will of the British Parliament, but upon the faith and doctrines which should be adopted by the future Colonists on their own behalf. Happily, very happily for Canada, the claims of the Scottish Church, though strongly advocated in England, were too weak to prevail against the influence of the Archdeacon of York. The conflict between the rival Churches created sufficient noise to awaken at length those who belonged to neither; and these latter, naturally enough, asked themselves, whether they wanted a national Church at all. The Scottish Church being considerably the weaker, was baffled in the fight, and joined the independent voters in a combined attack upon the supremacy of Episcopacy, and eventually a national Religion, or in other words a form of religion conferring exclusive rights or advantages upon its adherents, became to most intents and purposes a shadow or an empty name.

The High Church party among the Episcopalians, instead of maintaining that the Church of England existed here as a national Church, and that therefore the support granted by Parliament for a Protestant Clergy belonged to that Establishment, contended that the Clergy Reserves were granted and consecrated inalienably to the Church of England as such in this Colony—and for the Clergy they claimed as grantees the whole benefit of the Reserves. The question was mainly debated in this form—but in this shape the real point was avoided. And as the question has an intimate bearing on the claim which the Episcopal Church has set up to the exclusive control of the University, we shall endeavour to place it in its true shape, with such illustration as may be necessary to shew our meaning.

We hold that any people may, by means adapted to their form of Government, erect and endow a national Church. This national Church may be Roman Catholic, and may become Protestant Episcopalian, or Presbyterian, or Methodist, according to the will of the nation constitutionally expressed. And, by a parity

of reasoning, as the Church may, in a legal point of view, change its doctrine and still remain a national Church, so the same power which created it, may create many co-existent national Churches, or it may do without any national Church whatever.

At the Reformation in England, besides the confiscations of property appropriated to the Church and taken for state purposes—which confiscations we are not obliged here to defend or condemn—the ecclesiastical benefices throughout the nation were filled with Protestants in the room of Roman Catholics. The appropriations were originally made for the national Church,—not for the Roman Catholic Church;—and the property being national and not Roman Catholic, it continued without wrong in the national Church when it became reformed, and with that reformation forsook the Church of Rome. This could not have been the case had the property attached to the doctrine, or had it been considered *in the light of an estate vested in the Romish Church as once established in England.*

In the same manner in Scotland Episcopacy and Presbyterianism held Church benefices alternately, as either prevailed; but the benefices have continued national, and have followed the Church to this day.

Now it is very plain that had England and Scotland contained so many religious persuasions, upon terms of equality, or nearly so, as regarded numbers and wealth, as to make it impossible for any one to establish a supremacy, the national Church property could not have continued with any one sect. There must in fact have been many national Churches, or no national Church at all.

As regards this Province, it may have been the intention of King George III. or of his Majesty's Parliament, or of his Ministers, that the people of Canada should be all of the faith of the Church of England, or that some portions should profess the doctrines of the Church of Scotland, and that the Canadian Protestant Church should consist of one or both, as a National Church; but it is clear that events did not fulfil the intention. The people of the country, through a diversity of causes, became divided into many religious communities, no one of them having sufficient predominance in numbers or influence to be *the Church*. The Upper Canada Legislature repeatedly desired to have no such Church, and they prayed—as they had a right to do—that the Clergy Reserves should be appropriated to secular education.

By the late division of the proceeds of Clergy Reserves among different religious denominations, the principle has been established in Canada as regards state support—not that there should be no Church, but that there should be many Churches; and as regards any exclusive privilege or monopoly of civil advantages, we have not, thank Heaven, in Canada, a vestige of a dominant Church, except in the University of King's College.

As all Church endowment from national funds is for the religious instruction of the community—however their faith or doctrine may change or vary—so is all public endowment for educational purposes liable to be modified for the benefit

of the people to be instructed; and as an endowment made in Romish times was not one necessarily attached to the Roman Catholic faith, neither is a public endowment for educational purposes—supposing even that it had originally provided for religious instruction in a particular faith—a grant to the professors of that faith, but a grant for a public purpose which must be liable to modification so as to serve the end for which it was originally appropriated.

The University of Oxford once taught the Roman Catholic faith; it is now the chief source of religious education for a Protestant Church. Could this have been so with any regard to justice had the endowment been held to be Roman Catholic, and not national?

The late Clergy Reserve Act is based upon the principle not merely of religious toleration—but of perfect religious equality. Whatever inequality may exist in the distribution of the funds, the principle is preserved in all its integrity. We look upon the passing of that Act as a great event in the establishment of religious freedom, not the less valuable because it was not accomplished through blood and violence; but there yet remains after the wreck of Church predominancy—the wretched attempt of the Council of King's College to invest the Episcopal Church with the attributes of an exclusive education at the public expense—and when that Institution is made public, and secured for public purposes, and not a nest in which a Clergy can hatch their schemes of Church predominancy—Canada then, and not till then will have religious freedom with absolute religious equality.

But in the settlement of what the character of King's College should finally be, this strange anomaly exists. King's College *de jure* is unconditionally an establishment for the education of the Canadian people. *De facto* it is an exclusive institution for the education of a mere section professing the doctrines of the Church of England. Abstractedly the principle of religious equality has been determined by the law—while practically religious predominancy has been imposed by the Council. The obvious conclusion is—not that the principle established by the Legislature should be changed—but that the persons who have inverted the law and [illegible] its authority should be superseded. The remedy is one which the law, even without legislative aid, daily applies towards those who have betrayed their trust and frustrated its purposes. In this case the principal object of Parliamentary interference will be to restore public confidence to an Institution whose purposes have been scandalously perverted by its Trustees.

CHAPTER V

THE ORIGINAL COUNCIL

The original Charter ordained that the Corporation called or known by the name of "the College Council" should consist of "the Chancellor and President of the College for the time being," and of "seven of the Professors in Arts and

Faculties;" and in order to provide for the management of the University by the formation of a Council previous to the appointment of *Professors*, power was given to the Chancellor "to appoint seven discreet and proper persons resident within our said Province of Upper Canada, to constitute jointly with him the said Chancellor and President of our said College, for the time being, the first or original Council." It was also declared that such persons should vacate their seats at the Council Board immediately on the Professors being appointed.

The proceedings of the Council under the original Charter, so far as connected with the public history of the University, have been incidentally noticed in the preceding chapters. To the members of that body are to be traced all the obstacles which were thrown in the way of the Parliament and the people in their long and arduous struggle for equality of rights in the University as a national School of learning and science. Compelled at length to submit to a partial modification of their exclusive system, the Council directed all the energy and influence of which they were possessed to defeat the intentions of the legislature in opening the institution to the various religious denominations in the Province, and to place it permanently under an exclusively *Episcopal* management. The Amended Charter did not in any respect alter the mode in which the Council was to be constituted, but it restricted the number of Professors who were to have a seat at the Board to "the five senior *Professors of Arts and Faculties*," and extended the number of the whole Council to twelve—*the Speakers of the Houses of Parliament*, the Attorney and Solicitor General, and the Principal of Upper Canada College for the time being.

The design of the High Church party to defeat the principle of the Amended Charter was not long suffered to be dormant. Within a few weeks after the Royal Assent to the modifications of the Charter had been obtained, *Dr Strachan* submitted to the Council one of his inimitable "schemes" for making the University subservient not only to the interests of the Episcopal Church, but to an enlargement of his personal and pecuniary advantages. The new proposition, which he submitted to the Council on 26th April 1837, affords a curious specimen of the consummate art with which he attempted to ingraft his personal influence on the subordinate departments of the Institution, so as to render his authority co-extensive with the most minute details. In other respects it presents a no less happy illustration of the confidence with which this "Universal Doctor" was inspired by his own pre-eminent qualifications as a public teacher. After a passing tribute to the High Church University of King's College, London, he thus proceeded to place his intellectual resources at the disposal of his country:

> "Besides general superintendence, it is proposed to make the services of the President available for the Professorship of Moral and Intellectual Philosophy, with Christian Ethics and Political Economy. It will likewise be his duty to instruct such Students as belong to the Establishment in Christian Theology."

It might be no easy matter to determine the precise amount of loss sustained by the youth of Canada in being deprived of the services of *Dr Strachan* as an Academical Encyclopedia—but we have at least the guarantee of Dr Strachan's modest assurance that the faculty of discoursing on such abstruse subjects as Moral and Intellectual Philosophy, Political Economy, Christian Ethics and Christian Theology, may be acquired in a less intellectual atmosphere than within the walls of an University. For at what far-famed Academy did the "Universal Doctor,"

"Qui tria, qui septem, qui omne scibile novit,"

complete the cycle of universal study? Truly we may felicitate ourselves on the wonderful achievements of the Clergy since the times of an early English Monarch who was wont to complain that not a single priest south of the Thames, and very few on the north, could read either Latin or English. But our admiration of Dr. Strachan's innate excellencies rises into adoration when he informs us that "the labor will not be so great as on a slight view might be anticipated," and that he does not intend to confine his services to the timely discovery of those illimitable stores of learning which would have delighted and instructed remote posterity, but that he will also generously undertake the task of selecting the Professors for the various departments of Art and Science which excessive diffidence alone prevented him from pre-occupying. In this latter instance of his enterprise it may have been that the bright forms of Cramer and Chaplains danced before the prophetic vision of that learned Doctor, and that he was slightly influenced by the consideration that another visit to England at the public expense might place within his grasp the objects of his devout solicitude—but apart from such motives of piety, it was highly proper that his learned colleagues and fellow labourers in the Council and in the College should be men untainted by the heterodoxy in politics and religion which was evidently diffusing itself over the Province of Canada. He, therefore, proceeds in the development of his scheme:

"So soon as matters are in a proper train, it is submitted that the President be authorised to proceed to England, to select the Library, Apparatus, &c., likewise to assist in choosing such *efficient professors* as ARE CALCULATED TO LIVE IN THIS CLIMATE."

How interesting is the worthy Doctor's anxiety for the physical qualifications of the professors! Not a word escapes him of their due instruction in the Thirty-nine Articles and the doctrine of passive obedience. Every orthodox consideration is merged in a parental solicitude for long life, and we are naturally led to anticipate proposals for Policies of Assurance, or at least the statutory recommendation of a frequent and careful perusal of Sir John Sinclair's invaluable Code of Health. It is doubtless a malicious exercise of ingenuity to trace under this specious proposition a well planned design for riveting the fetters of an Episcopal ascendancy on the University. For although the modifications effected by the Legislature were intended to deprive the Institution of the Episcopal restrictions imposed on it by the Original Charter, yet it was sufficiently obvious that if Dr. Strachan could succeed in filling the Council Board and the Professors' chairs with individuals hostile to the rights of the other Christian denominations and sufficiently subservient to his own authority, the intentions of the Legislature might be clandestinely frustrated, and the University would speedily resume its original character. The very absurdity of its pretensions, however, destined the scheme to defeat. A copy of the detailed proposition found its way into the public prints, and so agitated the country with merriment that Dr. Strachan found it convenient to restrict his pretensions to the Chair of Theology.

The "scheme" was only abandoned to be re-produced in another shape. Dr. Strachan's ambition was at length gratified with the object of his devout aspirations. The high dignity to which he had attained, as Episcopal Bishop of Toronto, was incompatible with the humbler duties of a Professor's Chair, but it became necessary, in such circumstances, to maintain, in the University, the unbroken chain of Episcopal succession.

The Original Charter ordained that "the Reverend John Strachan, Doctor in Divinity, Archdeacon of York," should be "the first President of our said College," and that the President should be ex-officio a member of the Council. It does not contemplate the exercise of any extraordinary power on the part of the President beyond that of any other member, further than the right of presiding at the meetings of the University, and exercising the usual functions of a Chairman. His other duties necessarily begin and end in the Council, and his authority in the University extends simply to matters as to which the Council may give him a special delegation. As a recompense for these common duties as a Trustee in the management of the property, he had contrived to appropriate for about twelve years the annual salary of £250 sterling, which was regularly paid until Sir George Arthur put a stop to this disgraceful misapplication of the funds. In consequence of this untoward circumstance, Dr. Strachan's zeal for the University appears to have experienced some diminution; but it was scarcely to be expected that he would relinquish the influence which he had so long exercised without making a violent effort to secure an identity of interest and disposition in his successor.

The political changes to which the Province was soon afterwards subjected, afforded ample opportunity for putting in operation the new series of intrigues which we are now to place before the public. The active interference of the successive Chancellors, Sir George Arthur and Lord Sydenham, had some effect in placing the financial affairs of the University on an improved basis, but the general system and the character of the Council remained unchanged, and at length the removal of the Seat of Government from Toronto, by depriving the Council of the only members from whom enlarged views were likely to emanate, left the University entirely in the hands of an Ecclesiastical Compact, whose extravagant and unscrupulous conduct has brought it to the verge of ruin.

In anticipation of the University being speedily opened for the purposes of instruction, it became an object of paramount importance to the Council to make arrangements for the change in its constitution consequent on the appointment of Professors. The Charter distinctly recognized an order of precedence among the Professors, and imposed certain duties upon "the Senior Professor," which gave him rank and importance next to the President. In the arrangements for carrying the University into operation, a Professorship of Theology was determined on in direct opposition to the Amended Charter; and, following the example of the elder Universities, the Chair of Theology received the precedence in a statute approved by the Chancellor, and passed by the Council. So long as Dr Strachan's claim to the Chair was preferred, this arrangement was, of course, satisfactory to the parties by whom it had been planned; but on the abandonment of that claim, it appeared to the Council to be expedient—while any uncertainty as to the individual who might receive the appointment existed—to defeat the provisions of the Charter by a Council Statute better adapted to their sinister purposes. Accordingly, favoured by the changes in the Head of the Government, the Council framed a new Statute by which they determined the seniority of the Professors on the principle of retaining in the Second Council the individuals who had been most prominent for their bigotry and High Church zeal in the Original Council; and thus ultimately succeeded in placing the University at the most critical period of its existence—the commencement of its public operations—in the hands of parties who had never relinquished the intention of converting it into an Episcopal College.

The new statute of the Council brought into existence an office unprecedented in any Academic Institution in Europe. By concentrating an unlimited discretionary power in one individual known to be favorable to their designs, provision was made for carrying out the schemes of the High Church Party, without the solemnity of Statutes, which, if disclosed, might have received opposition either from the Chancellor or the future Council. To guard against such a contingency the new office of "Vice President," was created by a Council Statute—framed by a well disposed Committee, of which the very individual for whose exclusive benefit it was created was Chairman. The statute received the ready approval of his spirited colleagues, and it avoided the brilliant series of retrospective "preferments," to which Dr McCaul may have subsequently alluded in his brief for a learned Counsel, by saddling the University with an annual burden of £250 sterling—which it has been the means of conferring on Dr McCaul in addition to the ample endowment he derives as one of the best paid Professors in the University. The intention of this Statute obviously was to supersede the necessity of a discretionary Council, and by placing in the hands of Dr McCaul, already notorious in the Province as a violent and bigoted High Church partizan, the entire direction of the Institution, to reduce the Council itself to a nullity, or at the best, a mere instrument for the gratification of his unbounded passion for power. The office itself was not only repugnant to the spirit as well as the letter of the Charter, but the powers and duties concentrated in the individual whom the statute contemplated were directly at variance with the acknowledged principles of law by which the functions of Trustees are regulated.

It will be afterwards a matter of some interest to enquire what were the nature and extent of Dr McCaul's proceedings under this appointment. At present it is merely referred to in reference to its gross illegality. Not only is no such office contemplated by the Charter, but direct reference is made to the person who shall rank next to the President of the University, and who shall be entitled in absence of the President to perform his duties,—namely, "the senior member of the said Council present," and the precedence of this senior member is again significantly referred to in a subsequent part of the Charter in which the Chancellor is enjoined "to consult with the President of our said College, and the next *senior member of the said College Council*, respecting all statutes, rules and ordinances to be proposed by him to the said Council for their consideration." And the Charter further declared, that "*the seniority of the members of the said Council, other than the Chancellor and President, should be regulated according to the date of their respective appointments.*" Under these provisions it was competent for the Council to have appointed Dr. McCaul a dean or proctor of the University,—although the policy of conferring such office on one of the Professors might have been questionable; but in either of these offices his duties would have been strictly ministerial; he would have been the servant of the Council, not its dictator; and his genius would have been applied to purposes for which it was evidently intended—the enforcing a discipline which others more qualified had projected. But it was obviously *ultra vires* of the Council to infringe the rights of "the senior member," by the appointment of an officer who should not only supersede him as one of the advisers of the Chancellor and take precedence of him in the Council where his position was accurately determined by the Charter, but who should possess powers co-extensive with those of the Council itself.*

---

* It is a well recognized principle in Equity that the office of Trustee being one of personal confidence, it can in no case be delegated to another. The exercise of a discretionary trust is [illegible] with a delegation of its exercise to a stranger who could only be made responsible for ministerial acts. And it makes no difference that the individual to whose instrumentality its execution is entrusted is a co-Trustee. The [illegible] Trustees are not only personally answerable for all the [illegible] consequences of the delegation, but all the acts of the substitute which are of a discretionary character are actually void. It is notorious that under Dr. McCaul's disastrous management, the University incurred liabilities to an amount and of a character far transcending the most prodigal periods in the administration of the University affairs. Valuable lands were recklessly disposed of to meet the pressing [illegible] caused by his [illegible] and [illegible] extravagance and misapplication of the trust property; and at this moment the University is struggling with pecuniary difficulties which have already considerably impaired its efficiency, and [illegible] threaten its solvency unless immediately relieved by the sale of a large portion of the endowment. An attempt is indeed being made to prevent a public exposure by disposing of the University Lands, but as the College Council has no authority under the Charter to effect any such sales, so hazardous a speculation will scarcely tempt purchasers whose rights will in all probability be determined in a Court of Equity.

If the Statute itself was illegal *ab initio*, the manner in which the powers under it have been exercised have placed it far beyond the pale either of law or of reason. Were the subject not associated with so grave considerations, it would move to tears of laughter to describe how

"Vaulting ambition hath o'erleaped itself,"

and to witness the misapplication of talents which might have made a pedagogue respectable, but which were unhappily never designed by nature for the higher duties of government in a University. The subject will, however, meet due consideration, when the educational operations of the Institution fall to be detailed.

It is certain that the appointment was considered to be illegal by the Law Officers of the Crown—and that such is its effect will be sufficiently obvious from a summary of the discretionary powers with which the Statute has invested this anomalous officer. The statute proceeds on the preamble that the residence of the President within the precincts of the University and his personal superintendance of its internal affairs are incompatible with the discharge of his ecclesiastical duties. It therefore declares that there shall, during the Presidency of the Bishop of Toronto, be a Vice-President, who *shall be one of the Professors, and who shall have precedency and seniority next to the President*; that the Vice-President shall reside within the precincts of the University; that he shall preside at all meetings of the Convocation in absence of the Chancellor and President; that it shall be his duty to examine Students previous to matriculation, to *maintain observance of the Statutes by the Professors*, Scholars, and all other members of the University—to enforce such observance and discipline by *admonitions and punishments*—to be the parent and guardian of the Students, to direct them in their studies—to promote by all means in his power their progress in religion and learning—preside over College exercises—regulate inferior officers and servants—*and inspect all the affairs of the College not appertaining to the Bursar's office*.*

The creation of the office of "Vice-President," irrespective of its own merits, assumes an importance in the History of the University from the circumstances which followed the appointment. It brought the rights of the respective Professors into collision by involving the order of precedence in doubt, which was only set at rest, after considerable delay, by the interposition of the authority of the Chancellor, into whose hands the Professors deemed it necessary to surrender their appointments. The authority of the Council was thus, for a time, placed in abeyance, and during an interregnum of several months the favourable opportunity was seized by the Vice-President of gratifying his insatiable passion for frivolous display and extravagance, with the zest to his disastrous Administration that it was uncontrolled by any thing like personal responsibility. The absence of responsibility during the abeyance of the Council affords, indeed, a striking argument for the illegality of the office. It would be monstrous to suppose that the guardians of a public trust could at any time throw off their responsibility to the public by not only delegating the powers vested exclusively in themselves to the instrumentality of an irresponsible officer—but actually bequeathing those powers which could only be exercised—if they could be legally exercised by delegation at all—during the existence of the original Trustees.—And yet to whom was the Vice-President responsible? Not certainly to the old Council, whose existence was no longer recognized by the Charter, and, assuredly, not to the new Council, for he could possess no authority from them till his appointment had been confirmed. And yet during the interregnum, this office usurped powers of administration as ample as the first Council ever affected to possess, and signalized the period of his usurpation by a daring violation of the provisions of the Legislative enactment under which the University went into operation, by gross misapplication of the funds of the Institution, and by the introduction of a discipline alike repugnant to the feelings of the community and dangerous to the interests of the University.

---

* By another Statute of the Council the important concerns of the Bursar's office were confided to the parental care of the Bishop of Toronto.

CHAPTER VI.

THE OPENING OF THE UNIVERSITY.

In June, 1843, under the Administration of the "Vice-President," the University was opened for the purposes of Education. It is important to observe that this step was taken while the authority of the College Council was in abeyance, and before a single statute had been passed for regulating and enforcing the government and discipline of the Institution. All the preparatory arrangements seem to have been made under the discretionary authority of Dr. McCaul, as Vice-President; and as the same unlimited power extended over the whole of the first term, his name may very justly be associated with the singular details which have given to the University its present tone and character.

The Council now felt themselves in a position to offer open violence to the principles of the Amended Charter. Every effort was studiously made to impress the public mind at the outset with their determination to defeat the intentions of the Legislature by imposing an Episcopal character upon the Institution. Under no authority from the Charter, but in flagrant violation of its spirit, a Theological Chair had been established, from which the doctrines of the Church of England were to be taught, by a Professor selected from the University of Oxford—the fountain of orthodox illiberality and prejudice. With one exception, the Professors had been all taken from the bosom of the Episcopal Church—a circumstance in no respect detracting from their qualifications, but the result of something more than accident, and certainly calculated to have a material influence on an institution which, in other respects, has been so carefully moulded to Episcopal prejudices. A chapel had been fitted up at great expense for the exclusive accommodation of the Episcopal members, in which every student was compelled, unless favoured by the dispensation of the Vice-President, to worship daily according to the ritual of the Church of England. In the most minute details of dress and discipline, the Universities of Oxford and Cambridge, which have been so long distinguished for violent hostility to the Dissenters, were imitated with a precision abundantly significant of the spirit in which the University of King's College was to be governed. The frivolous taste of the Vice-President was amply gratified with the melo-dramatic effect of caps, gowns, hoods, surplices, gilded maces and baubles. Utterly destitute of that comprehensive grasp of intellect which would have seized upon and incorporated those higher and nobler features which have rendered the ancient Universities of England venerable in spite of their corruptions, his genius seemed to soar no higher than the mere tailoring department, in all the novelties of which it revelled as if under the influence of a miserable monomania, and of a silly anticipation that those venerable absurdities which had grown up on the banks of Isis and Cam, would impose upon the people of Canada, and would compensate for the absence of all that was sound and useful, and adapted to the position of the country, and to the genius and wants of the people! [illegible] by an Exchequer impoverished by its own

---

* We acknowledge a high respect for the Academic Institutions of England, but none for the corruptions under which they labour. Nor has all the frothy declamation of the Vice-President convinced us that England owes much of her renown to the system upon which these exclusive Establishments are conducted. It would be as absurd to attribute the greatness of English literature to the course of Academic instruction at the Universities, as it would be to trace the greatness of England's commercial prosperity to the restrictions upon her trade. It is not, however, against the Institutions themselves that we are inclined to inveigh, but against the abuses which are there permitted to flourish in exuberant rampancy. If we have formed an unjust estimate of their merits, we have at least the satisfaction of erring in company with the greatest names of which English literature has to boast. Bacon spoke of their constitution with reprobation. Milton condemned their injurious influence in retarding the expansion of the mind. Dryden regretted the time which they had caused him to misspend. Clarendon felicitated himself on his escape from them. Swift, Gray and Gibbon assailed them with the keenest shafts of their satire;—and Jones described them as a [illegible] peaceful scene of slumber and thoughtless meditation." It would be easy, indeed, to establish, by the testimony of a series of the most gifted minds which England has produced, that [illegible] of their quality have been [illegible] ancient University has been free from gross corruption and defects, and we take advantage of [illegible] to quote a few of the authorities immediately at hand, and from whom a more favourable representation might have been expected, if truth could have been sacrificed for the sake of [illegible] and [illegible].

"In the Universities they learn nothing but to believe; first to believe that others know that which they know not, and after themselves know that which they know not. They are like a becalmed ship, they never move but by the wind of other men's breath, and have no oars of their own to steer withal."—*Bacon's Tract in Praise of Knowledge.*

"In the Universities, all things are found opposite to the advancement of the sciences. For the readings and exercises are here so managed that it cannot easily come into any one's mind to think of things out of the common road: or if, here and there, one should venture to use a liberty of judging, he can only impose the task upon himself without obtaining assistance from his fellows; and if he could dispense with that, he will still find his industry and resolution a great hindrance to his fortune. For the studies of men in such places are confined, and pinned down to the writings of certain authors, from which if any man happen to differ, he is presently reprehended as a disturber and innovator."—*Novum Organum, Ar.* 90, *lib.* 1.

"Such are the errors, such the fruits of misspending our prime youth at the Universities, as we do, either in learning mere words, or such things chiefly as were better unlearned."—*Milton's Tract on Education.*

"The two wells of learning, Oxford and Cambridge, are dried up, students decayed, of which scarce an hundred are left of a thousand; and if in seven years more they should decay so fast, there would be almost none at all: so that the devil would make a triumph, while there were none learned to whom to commit the flock."—*Dr Bernard Gilpin's Sermons preached at Court.*

"The Universities, Oxford especially, have been unhappily successful in corrupting the principles of those who were sent to be bred in them; so that few of them escaped the taint of it, and the generality of the Clergy were not only ill-principled, but ill-

reckless extravagance, a crowd of lacqueyed officials was employed to swell his personal pomp,—as if to prove that an endowment for the public benefit was to be administered as if nothing more was to be considered than the private gratification of its Trustees.*

---

tempered; they exclaimed against all moderation as endangering the Church; though it is visible, that the Church is in no sort of danger from either the numbers or the interest that the dissenters have among us, which, by reason of the toleration, is now so quieted that nothing can keep up any heat in those matters, but the folly and bad humour that the Clergy are possessed with, and which they infuse into all those with whom they have credit." "In those seats of education, instead of being formed to love their country and constitution, the laws and liberties of it, they are rather disposed to love arbitrary government, and to become slaves to absolute monarchy. A change of interest, provocation, or some other consideration may set them right again as to the public; but they have no inward principle of love to their country and of public liberty: so that they are easily brought to like slavery, if they may be the tools for managing it."—*Bishop Burnet's Hist.*

"Let him who is fond of indulging in a dream-like existence go to Oxford, and stay there; let him study this magnificent spectacle, the same under all aspects, with its mental twilight tempering the glare of noon-tide, or mellowing the shadowy moonlight; let him wander in her sylvan suburbs, or linger in her cloistered walls; but let him not catch the din of scholars or teachers, or dine or sup with them, or speak a word to any of the privileged inhabitants; for if he does, the spell will be broken, the poetry and the religion gone, and the palace of his enchantment will melt from his embrace into thin air." "What has been the result of the system of education pursued at the Universities? During the last two centuries, one class of statesmen has resisted all improvement, and their opposition has been limited to [illegible] alternations: while philosophy, during these centuries, has, instead of advancing the science of government, been occupied in counteracting laws founded upon erroneous principles: erroneous commercial laws: erroneous laws against civil and religious liberty: and erroneous criminal laws."—*Montagu's Life of Bacon.*

Founded by priestcraft, almost [illegible] with its professors in the earliest times, and always in the hands of the ruling powers of the Church, the Universities have in every age been most exclusively appropriated to the education and usages of the Establishment and its members. The most rigorous compliance with its doctrines has always been exacted, the strictest exclusion of all Dissenters from them has uniformly been practised. As long as Popery was the religion of the State, the Universities were rigidly Catholic; and indeed the endowments, in by far the greater part, proceeded from the bounty and piety of Romanists, and were given for the propagation of the Romish faith, and the inculcation of the Romish discipline. When the State threw off its allegiance to the Pope and became Protestant, the Universities followed, and grossly directed all the donations and bequests of the Catholic founders to the destruction of the Catholic religion, embracing the reformed faith with the intolerance of their old profession, and transferring to Dissenters the hatred which they had formerly borne to the doctrines and discipline of Protestants. But this hatred was very cordial, of course very consistent; and no participation in her endowments could ever be hoped for by any one who was not prepared to avow an implicit belief in the dogmas of the Church, and testify it by an outward observance of her ritual every day, as well as by occasional declarations and signatures of a more solemn kind."—*Edin. Rev. Aug.* 1836.

"One fortnight," observes Dr. Pusey, "comprises the beginning and end of all the public instruction which any candidate for Holy Orders is required to attend, previously to entering upon his profession."

"The University of Oxford," *Professor Powell* confesses, "is not an enlightened body—we (its members) have [illegible] liberality in religion, and we study logic in a very humble way."

* It is a deplorable fact that the number of salaried Officers at King's College nearly equals that of the Students who have matriculated during the three first terms.

The gross and rude attempt to establish the Collegial residence and discipline in all those unimproved deformities which have caused the residence of Cambridge to alternate in fearful oscillation between a School of Learning and of Licentiousness, showed how little this Vice-President knew or understood the history and character of those Institutions upon whose mechanism he seems to have gazed with a sort of savage bewilderment without being able to comprehend any one of the principles upon which it had been set in motion or kept in operation. Under his administration, the first of a series of Monastic Establishments has been completed at a ruinous sacrifice of the endowment, with no other apparent object than that of giving the University the paltry monopoly of the board and lodging of a handful of Students.

It is, indeed, an undeniable fact, that such establishments, formed on the Monkish model, are to be found at Oxford and Cambridge; but it is no less true that they have been the principal causes of the immorality which prevails to an alarming extent at those famous Schools, and they are now only tolerated as part of an ancient system,—the necessities under which they were instituted having long ceased to exist. In early times, the English Universities were not merely national, but were, in every sense, cosmopolite Institutions. During the middle ages, Students flocked to them as the Schools of eminent teachers, from every country in Europe. The vast concourse of Students occasioned a scarcity of lodgings and exorbitant demands for rent in the towns where they were established, and a serious difficulty was thus created to the poorer classes of Students, whose means were unable to meet the demands which the increasing celebrity of the Schools occasioned. The benevolence of individuals was stimulated to relieve the Students of a burden, which many of them could ill afford to bear, by providing them with free lodging during the progress of their studies; and the domestication of the Students consequently became a prominent part of the system. Some of the Colleges had, indeed, been founded solely for the support of indigent Scholars, but the practice of domestication has been in a great measure perpetuated at Oxford and Cambridge by the illegal monopoly which the private Colleges have usurped over the national Universities. In every other country of Europe the system of domestication has been gradually but certainly relinquished as altogether unsuitable to the character and not required by the necessities of the times. The University buildings present no longer more than an aggregation of class-rooms, in which the proper business of the University is conducted with reference to the public benefit, and not as *Normal Schools* for the training of Vice-Presidents, at the public expense. It was reserved, however, for Canada to lead the way in a revival of these Monkish features of the ancient Universities, as if the more sincerely to evince the *Puseyite* tendencies of her population by the adoption of a system to which she was constrained neither by her necessities nor her interests.*

---

* The origin of the Collegial system was almost contemporaneous with the establishment of the ancient Universities, and was adopted from the University of Paris, which was the model upon which the English and most of the Continental Universities

It is with the morale of the system upon which the College Council are proceeding that we have at present to do. Their eccentric taste for architectural embellishments and economical arrangement, and the adaptation of their means to the end proposed, will be more appropriately discussed in the subsequent Chapter. But surely the people of Canada do not require to be warned against the fearful demoralization and licentiousness, which the system of domestication will inevitably introduce. We dare not stain our pages by more than a bare reference to those immoral practices, which, notwithstanding the vigilance of an extensive police, prevail to an alarming extent at Oxford and Cambridge. The truth of the charges which have been frequently made against these Institutions has been lately established in the British Parliament by revelations from the personal experience of some of its most distinguished members. The hopeless insubordination that has hitherto attended Dr. McCaul's administration will scarcely afford a guarantee for purity of morals at King's College under the monastic system, and under an enlarged sphere of action. Nor can any plea of necessity be adduced for so hazardous an experiment in a city where there exists sufficient competition among Boarding Establishments and ample accommodation for the largest influx of Students that could be anticipated, even were the University to accomplish the purposes for which it has been established by law.

The only argument to which any weight can be attached for retaining the system of domestication in the English Universities is, singularly enough, the only one which the Trustees of King's College seem to have despised—namely, the opportunities which it has afforded to indigent scholars of a complete course of academic instruction. To the honour of England it should be acknowledged, that she has offered facilities to persons from the very humblest walks in life for rendering themselves masters of all the knowledge that it was in the power of the most learned Professors to bestow; and it is a pleasing reflection that some of the greatest names which have adorned her Universities, have owed their greatness to her bounty. But to the ineffable disgrace of Canada, a rich endowment which was calculated to afford to its youth a liberal education, adapted to the necessities of a young country, has been so frittered down and wasted by wilful extravagance, misapplication, and a base thirst for personal aggrandizement, that at the present moment she has not wherewithal to educate a free scholar at her University.

---

were formed. In Germany the Collegial Establishments never obtained a decided predominance over the functions of the Universities. In the older Universities of the Empire, the system of Conventual Establishments only amounted to the habitation, aliment and superintendence of the youth, and such institutions were only called into existence after the commencement of the sixteenth century. Prague, Vienna, Heidelberg, Cologne, Leipsic, and a few others, all possessed, in early times, such establishments; but since the revival of Letters they have been unable to attain any importance. In England, where they have long usurped the functions of the Universities, the Colleges have owed their stability to their enormous wealth. The narrow system of tutorial instruction has accordingly predominated, and has tended, in a remarkable degree, to impair the efficiency of the Universities. This is no new charge against these Institutions, but has been long a matter of complaint by their warmest admirers.

It would be unnecessary to waste argument on the system of general domestication, when the designs of its projectors are obnoxious to a more aggravated charge than that of imbecility. The attempt is subservient to the great scheme which the Council have cherished with undying affection,—to convert the University, by the instrumentality of domestic superintendence, into a nursery of High Church prejudice and intolerance. And in pursuance of this design, another purpose favourable to the same object will be effected. The buildings necessary for the proposed domestic accommodation, and which can never be adapted to any other purpose, will make such an inroad on the endowment as will effectually silence all demands for a participation in its bounties by the other Christian sects. The modification of the system which has been introduced until the intended arrangements have been completed, has proved its perfect adaptation to the purposes intended. The aggregate fees of the Students during the first and second terms have been found not sufficient to cover the expense of their dinners; but the practice has afforded an admirable opportunity for introducing those venerable High Church toasts which lend their potent qualities to the small beer with which the Students are regaled on these festive occasions. The Vice-President, unwilling to put a stop to such virtuous ebullitions of youthful orthodoxy, has with much liberality granted dispensations to such of the Students as have interposed their prejudices to the general current of orthodox sentiment.

It was an ominous circumstance that the first step which was publicly taken in opening the University, should have been chargeable with gross and reprehensible deception. The Students were called upon to subscribe a declaration of obedience to the Statutes, Rules and Ordinances, framed under the provisions of the charter, and the Vice-President gave the sanction of his authority to this solemn mockery, under the full consciousness that not a single Statute had been passed by the Council which could in any respect affect the discipline of the institution. The Charter had indeed ordained that the due plan and government of the University should be enforced through the operation of Statutes; but as the Council had determined that the Charter should only take effect in so far as it favoured their sinister designs, they foresaw that they could infringe the law with more perfect impunity by transferring the government to an irresponsible officer than by placing that officer under the operation of legal statutes, on the violation of which they might have been brought to punishment for a betrayal of their trust.

The design of subverting the law by a secret evasion of the provisions of the charter was most unwisely but strikingly declared in the Inaugural Address of the President, whose literary predilections have so frequently proved disastrous to the "schemes" of his party. He alluded to the principles of the original charter in terms expressive of the value he attached to his own exertions in behalf of the Episcopal Church. He characterised it as "the most liberal that could be framed on constitutional principles,"—and denounced those who had struggled for equality of rights, and whose claims had received the sanction of a parliamentary modification of its exclusive provisions, as "turbulent spirits," who had taken much pains by calumnies and misrepresentations to poison the minds of the people against the charter." He referred in terms of warm admiration to the resistance which the College Council had uniformly made to "the unchristian intrigues and dissensions" by which their designs had at length been frustrated. The London University, to which in some respects the Amended Charter had assimilated the University of King's College, he denounced as "an infidel attempt which had signally failed, as all such godless imitations of Babel ever must." "The same considerations," he observed, "also convince me that had the University been permitted to proceed under the Royal Charter without alteration, it would have been far more efficient for all the purposes intended, than in its present form." And he defended a recurrence to the original system on the ground that the Episcopalians were now entitled to an exclusive University, inasmuch as the other sects had recently evinced their exclusive predilections by the establishment of Colleges adapted to the principles which they severally professed.

In such language did the highest Episcopal Dignitary in the Province and the Chief Executive Officer of the University, denounce the law under which the Institution had gone into operation, and daringly advocate its violation before the youth who had assembled under the anticipation of receiving that "complete and generous education which fits a man to perform justly, skilfully, and magnanimously all the offices, both public and private, of peace and war."* Was it to be expected that the law would be honestly acted on when its execution was left in the hands of one who had thus openly avowed himself an enemy to its spirit and principles—and who had resolved, within the limited sphere to which he had at last been driven, to continue the [illegible] which had for so many years impeded the progress of the country and the moral and social advancement of its population? Was it to be tolerated that the same individual who had raised himself to the dignity which he then enjoyed by a long course of indirect persecution, and by resisting and trampling on the civil and religious rights of his fellow subjects—who had, by the "leprous distilment" of calumny and misrepresentation poisoned the ear of his Sovereign in regard to the loyalty of his countrymen—who had lived and battened on secret insinuations and charges of disaffection—should commence the public discharge of his duties in a national University by inculcating on the assembled youth disrespect and hatred of the law, and by avowing his determination to subvert its authority? If privileged insolence may thus claim protection in the possession of irresponsible power yielded by the slavish subserviency of his minions, the law has been robbed of that majesty which gives it its highest claim to obedience.

The spirit in which the University was opened has already exhibited the fruits which it was so well calculated to produce. The absence of Statutes for regulating and enforcing a proper discipline has given an immunity to insubordination which has been quickly appreciated by the students, and has at length made the [illegible] an object of unqualified scorn and derision. There is not a student within the walls who is not well aware that no Statute exists under which he can be legally

---

* Milton.

I

punished for breach of discipline. It may flatter the vanity of the Vice-President to assume the affected power of issuing "dispensations," "indulgences," and "rustications," but every youth is aware that neither legal indulgence nor legal punishment is conveyed by these empty words—and that until Statutes have been passed for regulating the studies preparatory for degrees the arbitrary inflictions of the Vice-President cannot affect his claims to University honors. The absolute failure of the series of miserable expedients by which the Vice-President has attempted to establish an exclusive personal authority ought to have convinced him, if his previous experience was insufficient, that an University must be governed on some settled principle, and not by the whims of a capricious temper. The impotent attempt to sacrifice the legal authority of the College Council to an inordinate passion for personal power has met with the fate which it merited, and would be a source of gratification, if its disastrous influence on the character of the University did not excite the most anxious apprehensions.

The Medical School,—in many respects the most important department of the University in the present position of the country,—has experienced to an alarming extent the effects of this mismanagement. In a country where the opportunities of acquiring Medical skill are so limited, it might have been expected that every means should have been adopted to render the education of practitioners easily accessible, and that in this department at least public necessity would have prevailed over sectarian bigotry. But here also has the fatal influence of the Vice-President extended to blight the prospects of the country by an ignorant interference with the duties of the Medical Professors, and by the application of his exclusive principles to a department whose free operation would have conferred immediate and lasting benefit on the country.

Under the present arrangements the only real benefit which the public can derive from the establishment of the Medical School is the admission of "Occasional Students"*—who may attend the lectures of the various professors, but will not be entitled to any of the honours. To entitle the Student in Medicine to honours he must, previous to his professional course, have taken a degree in the *Faculty of Arts*. The Medical Student may thus study at King's College—he may reach the great point of receiving Medical honours with advantage to himself and to the community, and with credit to the University—but the stamp of ability and knowledge to which by his attainments he may be justly entitled, will be withheld—he must practice in a lowered and subordinate position, or he must expatriate himself for a time—he must go to a foreign land and ask from a foreign University that degree for which his literary and medical education may have eminently qualified him—that he may be on a level with his fellow students who have gone through the same professional course, but whose religious principles, or it may be their scruples, have not prevented from taking a degree at an Episcopal University.

---

* *No part of the conduct of the Vice-President has proved his incapacity for the position which he has assumed, so much as his ignorant and injudicious interference with the management of the Medical School; and, as a necessary consequence, no department of the University has suffered so materially in the crisis. We also have

The mismanagement of King's College affords a melancholy illustration of the disastrous policy of placing the administration of a law in the hands of parties who have an imaginary interest in subverting it. Had the spirit and intentions of the Amended Charter been fairly acted on—and had private interest not usurped the place of public duty, notwithstanding its very obvious defects—the Charter was sufficiently wide in principle to comprehend the advantages of a liberal education; but by its gross and fatal perversion a system has been introduced neither in harmony with the free principles which prevail in the country, nor consistent with the advantages of sound academic instruction. That dispensations from the rights and ceremonies of the Episcopal Church have been granted, is no answer to the charge of a recurrence to the original system—and of a betrayal of trust in imposing on the University an essentially Episcopal character. The very existence of dispensations is in itself at once an admission of that fact, and an assertion of superiority claimed in the University on behalf of the Church by which they are granted. Is not the granting of dispensations as a matter of favour an assertion that those who receive them are only entitled to the full privileges of the University by sufferance—and does not sufferance imply something of degradation?

But under what interpretation of the Amended Charter can any one Church claim an ascendancy in the University? If the Episcopal Church has a superior right, upon what possible grounds were the amendments made? The privileges of that church were already recognised by the original Charter—was the amended law which was so unanimously passed by the Council, necessary for their further security?

It has become sufficiently obvious, that before the University can fulfil the purposes for which it was intended, the parties who have grossly perverted the law and frustrated its intentions must be removed. The necessities of the country, the peace and prosperity of its inhabitants require that the majesty of the law

---

occasion in another place to advert to his repeated attempts to degrade the position of the medical professors—and to the gross breach of faith to which he was a party, in the reduction of their salaries below the rates promised by a former Chancellor. But we allude more particularly, at present, to the systematic opposition which he has given to the arrangements proposed by Dr. Widmer and others in whom the country would have gladly reposed its confidence. It was [illegible] in one of the Vice-Presidents that in opening the Medical School he should have taken occasion to offer vulgar insult to Dr. Widmer and his medical professors, at a time when all parties were disgusted by his interference with matters regarding which he was profoundly ignorant. The failure of the Medical School has been the result.

If it be thought that we have prematurely attacked the system of exclusion before the Statutes have been passed, we have only to say, that we have proceeded on the universal understanding in the University in regard to the admission of medical students. An application to the Bursar was made, at the commencement of the last term, on behalf of the Presbyterian body, to ascertain the conditions on which Presbyterian Students could be admitted to the privileges of the Medical School.—To this application an answer was returned after consultation with the Vice-President in his office, that the Statutes would be published. The fact that these Statutes were not in existence was attempted to be concealed, but the fact that they have not yet been passed proves the deplorable mismanagement under which the Institution is labouring, and by which its efficiency is impaired.

shall be vindicated by the signal punishment of the parties by whom it has been outraged. If conformity to the Episcopal Church were required by the law, there might be some reason for giving it an ascendancy in the University, as a national seminary of education. But when, on the contrary, the great majority of the inhabitants of this Province differ from that Church in doctrine, discipline and worship—when the other denominations are powerful in numbers, in influence and in activity—embracing as they do nine-tenths of the enlightenment, the wealth and the stamina of the population—when there exists no difference in the civil rights, privileges and powers of the people on account of the religious opinions which they entertain—why should the same equality not exist in this seat of learning, by admitting all classes and denominations on the same principle of equality to a free enjoyment of its benefits in their studies, and afterwards to the reward and record of their merits in the attainment of its offices and honours. There is no monopoly of morals or good citizenship by any particular sect—why should civil privileges be confined to one denomination which only enjoys a share of the virtues that are equally diffused over all?

It is a bitter mockery to say that the various denominations of Christians are admitted by sufferance to enjoy the advantages of attending the lectures of learned Professors, in the prosecution of their professional education,—that *by sufferance* they may devote themselves to the acquisition of professional learning—that they may toil and labour in the prosecution of those studies which will fit them for attaining the honours that the University can bestow,—but, inasmuch as they will not submit to Episcopal discipline, they must look to the other Universities of America for conferring those titular distinctions which our own University withholds from native intelligence and learning, on account of conscientious convictions. Are the civil rights of the Canadian people thus to be gauged by the measure of their theological opinions? Are the creeds of our fellow-subjects again to revive a system of negative persecution, and to be made a matter of punishment or reward? Is the great majority of the population to be placed under a sense of personal injury and a suffering of positive evil, by which they are to be retarded in the paths of professional life? Are honours fairly won to be refused on the ground of creed? Are the people to be exposed to the feeling that they are ill-treated by the laws of their country, and that they are precluded from the enjoyment of benefits which are open to others by the illegal regulations of an exclusive establishment? And are all these practical injuries to be inflicted, not only without the sanction of positive law, but in flagrant and open violation of an express legislative enactment—by parties who having signally failed in establishing a legal orthodoxy, seek to allure neophytes to Episcopacy by hiding the iron spirit of intolerance under the mask of dispensations and favours, which they will refuse to confer the moment they can discover that there is inability to demand? If the great purposes for which the University was established have been thus grossly and unjustifiably perverted—if the law under which its Trustees were bound to act, has been thus scandalously violated—will it be said that there exists no power in the Constitution to bring the guilty parties to punishment, and to redeem the *Establishment* from the stigma of a disgraceful prostitution?

CHAPTER VII

ADMINISTRATION OF THE ESTATE.

The Chancellor having returned their appointments to the Professors, under such dates as fixed the order of precedence, the authority of the new Council was called into existence in October, 1842. Before adverting to the proceedings which have since taken place, it will be proper to give such a view of the administration of the Estate as can be obtained from the materials to which we have had access. The irregularities of the Bursar's office are not the only obstacles which exist to prevent a thorough understanding of the University affairs. A long course of maladministration has made the Council wary in furnishing details, and accordingly the Returns which have been made to Parliament are studiously mystified and defective. Sufficient materials may, however, be obtained to establish the character of King's College as the very Paradise of Jobs, even in a country where unscrupulous waste and misapplication of the public treasure have imposed scarcely any limits to cupidity and corruption.

The first general investigation which appears to have been made into the state of the University affairs, was instituted by Sir George Arthur, as Chancellor, in 1839. In the course of that year an accountant was appointed to examine the Bursar's Books, and to report on certain alleged irregularities to which the Chancellor's attention had been directed.

It appeared that the Bursar's accounts of receipts and expenditure had been made up from loose memoranda, at first monthly, and afterwards quarterly—that the accounts themselves consisted merely of abstracts, and that the abstracts constituted the only record of the management of the Estate. No care had been taken to test the accuracy of details by means of a balance sheet; and, in fact, no attempt had been made either to present the accounts in a detailed form, or to show the connection of income with expenditure. The books themselves had been kept on no sort of system, and no connection existed between one book and another. No rental had been kept, and no register of the tenants' leasehold lands existed. Where complaints had been made by parties who had not received credit for payments, arrangements unfavourable to the Estate had been frequently made in order to conceal the absence of system. In fact every thing appeared to be in the most hopeless confusion, and evinced a degree of culpable negligence, which but for the active interference of the Chancellor, would have speedily brought the Estate to ruin.

It further appeared that large sums had been withdrawn from the funds of the Institution, for the private accommodation of the President, at first without any authority from the Council, and without any security having been given at the time; that, afterwards, notes of hand by parties in no way connected with the University, and which had been given to the President in the course of a private transaction, were deposited by him with the Council as security of the loan. In connection [illegible] with the investigation and in throwing light upon the system of management [illegible] 1840 a despatch from the Right Hon. C. Poulett Thomson to Lord John Russell is subjoined:—

"Government House, Montreal,
22nd May, 1840.

"My Lord,—I observe by the papers, that on the 30th March last Mr. Pakington took occasion in the House of Commons, to ask your Lordship certain questions in regard to the Bishops of Montreal and Toronto. With respect to the latter he is reported to have said, that Dr. Strachan had been deprived of his salary as President of King's College in consequence of his appointment as Bishop, contrary to the agreement made with him when he accepted the Episcopal office, a proceeding which he described as cruel and unjust.

"It is clear, that if these expressions were used by Mr. Pakington, it must have proceeded from his ignorance of the circumstances under which the salary of the President of King's College was discontinued. I feel it, therefore, my duty to state those circumstances to your Lordship, as I gathered them whilst in the Upper Province, as well as to bring to your notice some others relating to the connexion of the Bishop of Toronto with that establishment, which I had hitherto delayed doing, from a disinclination to enter upon transactions which I cannot consider creditable to the parties concerned.

"Your Lordship is aware that many years ago, a Royal Charter was passed for the establishment of a University in Upper Canada, and that by that instrument the Archdeacon of York was appointed *ex-officio* President.

"From various causes which have, at different times, been fully reported to your Lordship's predecessors, the institution, notwithstanding that it enjoyed a considerable endowment, was not then, nor has it been since, brought into operation. Several officers, however, were appointed, principally for the management of the Estate, and salaries were assigned to them; a salary of £250 sterling was also attributed to the President. At what period Dr. Strachan first received this salary I am unable, without reference to Upper Canada, to state, but the records of the Colonial office will supply the deficiency. From the same source, however, as Sir George Arthur's despatch to your Lordship, of the 8th June 1839, you will perceive that up to that date the Bishop had continued to draw it.

"But in the course of last year an investigation having been instituted by Sir George Arthur into the management of King's College, the fact that the President was annually drawing from its funds an income of £250 sterling, was brought to his notice. Considering that no duties of any kind beyond those of other ordinary members of the Council were attached to the office—that there was no immediate prospect that the Institution would be put into operation—and that every shilling taken from its revenues was so much deducted from the means of education in Upper Canada, already most deficient, it appeared to him impossible any longer to permit such an appropriation of its funds. In this opinion I entirely concur, and I am confident that your Lordship will approve the course which Sir George Arthur adopted. It is, indeed, difficult to understand how the considerations by which he was actuated should so long have escaped the notice of the Bishop himself.

"But the enquiry into the state of King's College and the production of some returns called for by the Assembly brought out other irregularities in the management of the Institution. Thus it appeared that the accounts of the Bursar were very much in arrear, and it became necessary therefore to remove him and to appoint another officer in his place; and it was also shown, that a very considerable sum had been borrowed from the funds of the University by the President for his private purposes, on the security of certain notes of hand, and that several of these notes had not been paid when due.

"Upon my entering on the duties of Chancellor of the University, the finances of that body naturally demanded my attention, and I was compelled to institute some enquiries respecting the accounts which were rendered to me.

"This correspondence I now enclose, and I have only to say, that it was not without considerable hesitation that I could satisfy myself with only recording my opinion in the Minute to the Council, which closed it, instead of proceeding to further measures.

"I have, &c.,
"C. POULETT THOMSON.

"The Right Honourable
"Lord John Russell, &c. &c."

The enclosure referred to in the despatch, was a letter to the Bursar in the following terms:—

"Toronto, February 15, 1840.

"Sir,—Your letters of the 11th, 12th, and 14th instant, have been laid before the Governor General, together with the enclosures. With reference to the defalcation in the accounts of the Treasurer, and the omission to take security from that officer, his Excellency is sorry to find that no remedy now seems possible, and it is only to be hoped that the property of the late Treasurer may be found sufficient to prevent ultimate loss to the University.

"With respect to the loan of money stated to have been made to the Bishop of Toronto upon the security of certain notes of hand, and upon the subject of which, in addition to your remarks, a letter has been transmitted addressed to yourself by the Right Rev. Prelate, I am commanded to inform you that his Excellency the Governor General feels himself compelled to record his opinion for the information of the Council.

"His Excellency wishes to abstain altogether from the consideration of the circumstances under which the loan was sought, alluded to in the letter of the Right Rev. Prelate, and upon which he had neither the desire nor the right to require any explanation. The points upon which he is called upon to express an opinion as Chancellor of the University are the circumstances under which the loan was made by the Council, and the action that has been taken upon the securities given.

"It appears that a loan of a considerable sum was made by the Council to one of the members of the Board; such a proceeding his Excellency cannot by any means view in the light of an ordinary money transaction. The employment of the funds of a public trust by one of the trustees for his own advantage, is a proceeding which, in his opinion, is highly objectionable, and calculated to destroy the confidence of the public in the management of the University. With regard to the second point, his Excellency regrets to be obliged to remark that a proper course has not, in his opinion, been pursued. It appears from the statement that no less than seven notes of hand are over due, of which three have been due since the year 1837, three since 1838, and the remainder since the 24th December 1839. In business of this kind punctuality should always be observed, but in the affairs of a public trust, a scrupulous regard to it appears above all things

---

In England such a transaction would be visited with severity in a Court of Equity. (*Note to the original minute.*)

desirable. If a note of hand be not discharged at maturity by the party first liable, the simple and ordinary course is to call upon the endorser (if any) to do so. No such steps seem to have been taken, and the signatures of these bills have been permitted to remain dishonoured, some of them for a very considerable time.

"I have, &c.,

"T. W. C. MURDOCH,
"*Chief Secretary.*

"Dr. Boys, *Bursar.*"

The last returns to Parliament of the University's affairs, were prepared in May, 1843, and laid before the Legislative Assembly in October of the same year. They professed to give—"a statement of the affairs of the University of King's College, and also of Upper Canada College, for the years 1839, 1840, 1841, and 1842"—but the manner in which they were prepared, so successfully defeated the objects of the Legislature in calling for them—that both Houses found it necessary to appoint Committees for the purpose of making further investigations, by the examination of books, papers, and persons. This examination was in progress, and evidence of an extraordinary character had been elicited, when the investigation was unfortunately arrested by the proceedings which terminated the last Session. In these circumstances, our Financial statement must necessarily be very imperfect; but we are fortunately enabled to throw such light upon some parts of the statement of the College Council, as may enable the public to form a fair judgment on the merits of their administration.

		Acres.
The original endowment of King's College amounted to		225,944
Of which there have been sold, up to 31st December 1842, - -		110,610
Leaving on hand, - - - - - - -		115,334
Of which there were on lease, - - -	85,334	
And unoccupied, - - - - - -	30,000	

The sales were commenced in the year 1828, and their number has amounted to 900, in fifteen years. The number of acres sold has varied in different years according to the exigencies of the trust. In some years the number of acres sold did not exceed 330, while in another, and at so early a period of the trust as the year 1835, no less than 18,000 acres were disposed of. In 1829 there were 21,063; and in 1830, there were 13,000 acres sold. The average price received between the years 1828 and 1842, was 22s. 3d. per acre.

It thus appears that before the University had gone into operation, considerably more than one-half of the original endowment had been disposed of. A fact so startling will naturally lead to the enquiry, under what authority did the College Council proceed in the absolute disposition of lands which had been appropriated for the purpose of education, and what extraordinary circumstances could warrant a proceeding so repugnant to the well-known principles of law and so inconsistent with the purposes for which the endowment was made.

In a legal point of view, there cannot be a doubt that every sale which has

been made is void. The Grant gives the Council no authority to sell, and the Charter is equally silent.

The administration of the endowment must, therefore, be subject to the common principles of law which govern similar foundations. Although the University of King's College may, in some respects, partake of the nature of a civil corporation—as, for instance, in respect of its Professors who have stipends annexed to their chairs *pro opere et labore*—yet the purposes for which it was established give it in some respects all the character of an eleemosynary foundation. It was instituted for the purpose of imparting assistance to its members in the prosecution of their studies; and, in the administration of its estate it is, therefore, subject to the principles of law which regulate corporations for charitable purposes.

Now the Trustees of an eleemosynary foundation are not authorised by law to make an absolute disposition of any part of the estate. The Court cannot authorise such a disposition, and Parliament itself will not go so far. Acts of Parliament have been sometimes obtained to authorise the exchange of an estate belonging to a charity for another, but in no instance, so far as we are aware, has an act been passed for converting such estate into money.

The Court of Chancery has invariably declined to sanction a sale where the authority to sell is not given by the instrument under which the Trust is constituted. And even where an implied power may exist, the Court will not interpose its sanction without sufficient proof as well that the sale is consistent with the provident administration of the Estate as that it is rendered necessary by the situation and circumstances of the Trust.

But what possible circumstances could arise consistent with a conscientious Administration of the Estate under which the College Council was constrained to dispose of a large share of the Endowment? The University did not go into operation for fourteen years [illegible] had been made, a separate provision had been given for the erection of the necessary buildings, lands immediately available and already under lease had been exchanged for the original Endowment, an income of more than £[illegible],000, per annum, was obtained from rents during the first year of the Trust; the annual income, notwithstanding the diminution of the Estate, had gradually increased to [illegible] £2,000 [illegible] far exceeding the necessities of the Institution—and yet, in spite of these advantages, the College Council have found it necessary to maintain their solvency by disposing of by far the most valuable portion of their Endowment, namely, the lands under Crown lease with all their valuable improvements, before a single lecture was delivered in the University.

The necessities under which the Council have suffered have not merely been of their own creation, but have been caused by a [illegible] of acts of the most flagrant and [illegible]. A salary of £250, per annum was given for upwards of 12 years to one of [illegible], in the discharge of his duties as a Trustee—the same Trustee was [illegible] credited with loans to a large amount—an expensive and unnecessary establishment of clerks was kept up for the benefit of the Bursar, whose subserviency has been all along purchased by pickings and perquisites—the pretext for keeping up the establishment was sanctioned by the system of sales of the Estate—the sales themselves being not only unnecessary, but perpetrated in fraudulent breach of trust—and, notwithstanding the ruinous dissipation of the Estate, the Council have little more to exhibit of the proceeds than a wretched boarding house for the accommodation of twenty-four students—an avenue—and a large amount of irrecoverable arrears of rents and instalments.

It is notorious that the manner of conducting the sales has been no less illegal than the principle upon which they were effected. At various periods of the trust, a determined opposition has been given to the sale of land by various Members of the Council, who have succeeded in putting an end in open Council to a practice which has, notwithstanding, never ceased in the Bursar's Office. A great portion of the sales has accordingly been made without authority of the Council; and during the course of the last year nearly 10,000 acres were disposed of when the authority of the Council was in abeyance. The sales have at no time been made under statute of the Council as required by the Charter, and indeed such have been the pressing necessities of the Council, that valuable lands have been frequently disposed of at prices greatly below their real value, for the sake of an immediate instalment, and no great anxiety has been exhibited in securing the balance of the purchase-money.

The disbursements of King's College, from the year 1828 to 31st December, 1842, were as follows:—

Assistance given to Upper Canada College, in fourteen years, exclusive of interest, amounted to -	£40,130	4	4½
Purchase of the Site of the University, College Avenue and Grounds, Improvements, &c. - -	13,148	1	9
University Buildings, &c. - - - -	8,731	10	5
Management and Incidental Expenses, - - -	14,787	15	2½
In all, - - - - -	£76,797	11	9

In the Parliamentary Returns no details are given, from which the liabilities of the University can be ascertained. It is certain, however, that at the date the Returns were made the obligations of the Council were considerable, and under the head of "University Buildings," &c., upwards of £10,000 were disbursed in the course of the year 1842. In the absence of the details, which were necessary to give any value to the accounts, it is difficult to make precise allegations of mismanagement and misapplication, but we are greatly within the mark when we say that upwards of £100,000 have been disgracefully squandered out of the Endowment before a single lecture was delivered in the University. That no part of this sum has in any respect benefited the Institution will be sufficiently obvious on an examination of the various heads of expenditure.

Upper Canada College.—The origin of this Institution has been noticed in the General History of the University. Its management having been placed in the hands of the College Council, it has participated, to a large extent, in the character which has attached itself to the University with which it was incorporated by the amended Charter. The minor College has been chiefly useful as a school for providing education, at a cheap rate, to the children of the higher classes. During the fourteen years in which it has been established, it has received a Parliamentary grant of £1000 sterling, per annum, and although it has also derived a considerable income from its own munificent endowment and from the fees of the Students, during the same period it has drained the University to the extent of £40,000, exclusive of interest. Although the dues had been fixed at a very low rate, yet, owing to gross negligence in their collection and a system of favoritism practised towards individuals, the sum of £6400, for dues, was given up as in arrear on 31st December, 1842. So long as the College Council have had the endowment of the University to fall back upon, the minor College has been sustained with a profusion of external means without a parallel in any school in Great Britain. The average number of pupils has for some years been about 130, of which 100 have been day pupils, and 30 boarders. The Establishment supports no fewer than 11 Masters, exclusive of visiting Teachers, giving an average of 12 pupils to each. The salaries of the Masters are as follows:

Principal of U. C. College,	£444
Three Classical Masters, at £300 each,	900
Mathematical Master,	300
French Master,	222
Two English Masters, at £102 and £130,	232
Master of Preparatory School,	161
Matron of Boarding House,	76
Drawing Master,	100

The dues for tuition are the only dues which are paid into the College funds. The Boarding Establishment is in the hands of one of the Masters, and the College Council is responsible to him for the deficiences arising either from remissness or favoritism in the collection. The stationery used by the pupils, and the expense of keeping in repair the buildings, &c., have been defrayed by the Council. The annual charges of the Establishment have amounted for many years, to upwards of £4000. Taken on an average of the four years preceding December, 1842, the dues for tuition have amounted to £113 per annum. The sum actually collected has, however, fallen far short of that amount. It thus appears that, independently of its own endowment and the College dues, Upper Canada College has received assistance from Parliament to the extent of £1000, and from the University to the extent of £2000 per annum. In the evidence lately given before a Parliamentary Committee, by Dr. McCaul who was Principal of Upper Canada College for upwards of four years, and *ex officio* a member of the College Council, he admitted that if an offer of £1000 per annum, with a promise of keeping the buildings in repair and the grounds in order had been made, the inducement would have been sufficient for a highly qualified Master to undertake the superintendence of Upper Canada College. The exertions which he has made, however, either in the capacity of Principal or as Trustee of King's College, to reduce the expenditure are unknown to the public.

and, it is believed, have not been greatly felt by either Institution. During the course of 1842, when a vacancy existed in the office of Principal, he attempted a characteristic modification of the system, which was intended to have the effect of uniting the various offices of Principal, Vice-President, and Professor in his own person. This attempt failed in the manner which will be afterwards adverted to. At present, it is sufficient to mention that in the face of repeated remonstrances to the late Sir Charles Bagot against the appointment of a Principal, on the ground of the unnecessary expenditure, and the fitness of any of the Masters to fill the situation, in which the President of the University concurred, with an emphatic denial of the Chancellor's legal right to make the appointment, the same influence was used with Sir Charles Bagot's immediate successor, to secure the office to the present Principal, whose superior qualifications, as a pliant tool, were at length discovered to be available in carrying out the intrigues of the College Council.

UNIVERSITY BUILDINGS.—No portion of the buildings necessary for the proper business of the University has yet been commenced. The buildings formerly used by the Legislature of Upper Canada having afforded temporary accommodation for Lecture-rooms, Library, &c. In pursuance of the design of reducing the endowment, by the erection of Conventual Establishments for the domestication of the Students, the Council have expended the sum of £[illegible]0,000 in the erection of a boarding-house. This building is as yet unfinished, so that no estimate of the entire expense can at present be made. A sum of £1600 has lately been expended on a range of water-closets; yet the building, when completed, is calculated for the accommodation of only 24 Students. The Council have it in contemplation, should a speedy sale of the Endowment be effected, to construct the [illegible] monastic establishments for the accommodation of Students and Professors; and have [illegible] the Council [illegible] superior private accommodation [illegible] of lands. In the meantime they will proceed to erect an Episcopal Chapel and Hall [illegible] the present building. The expense of buildings for the proper accommodation of 100 Students may be estimated at about £50,000, or about one-half of the remainder of the Endowment. The great advantage expected to arise from this scheme, will be the absorption of the available funds in High Church purposes, in order to frustrate any attempt to obtain a participation in the Endowment by the other Christian sects. To enable the Council to accomplish this nefarious scheme, they have lately opened up the sales, which can now be effected at the Bursar's office without the necessity of an application to the Council. Whether parties will run the risk of purchases which are void in Equity remains to be seen. There can be no doubt, however, that every purchaser will be guilty of a participation in the fraud. The building already erected is understood to have been finished under the careful superintendence of the Vice-President, and is a happy specimen of that peculiar style of architecture and internal economy which affords the least possible accommodation at the greatest possible expense. For the purpose of giving external symmetry to a building utterly devoid of architectural grace, the upper range of apartments have been so constructed that the windows are exactly on a level with the floor—apartments of a few feet square have three of their walls constructed of cut stone, and a great portion of the interior has been deprived of all the benefit of light. The building has, on the whole, been regarded as a curious monument of the imbecility of the Council, and is a striking instance of the impropriety of placing the administration of a public estate in the hands of a few Clergymen, whose profound ignorance of business is the most venial of their errors. The erection of this building was accompanied by one of those disgraceful "Jobs" without which the Council seem to consider their schemes as altogether incomplete. For the purpose of evincing their partiality towards a favourite contractor the tenders were not accepted till nearly three years after they were made. When the tenders were made, labour and materials were high. When the work was commenced, the price of labour had greatly fallen, and although it was known that the building could have been finished for two or three thousand pounds less than the price originally tendered, the tenders were then accepted and the contracts entered into. An architect was employed to superintend the erection of this building, and his services have been retained for an indefinite period, at a salary of £200. The labours of this individual, who may be regarded as a permanent officer of the Establishment, seem to be principally dedicated to the amusement of the Vice-President, and to the gratification of his frivolous taste with pictures and plans of buildings, for the erection of which there is, fortunately, neither necessity nor means. The other buildings upon which the funds of the University have been recklessly squandered and misapplied, are an Episcopal Chapel and an Anatomical Theatre. The chapel was fitted up by the Vice President when the authority of the Council was in abeyance. Although only intended for temporary accommodation, the sum of £500 was devoted to this illegal purpose. The Anatomical Theatre cost about £300, and was also erected under the superintendence of the Vice-President, whose versatile genius, though equal to all things for all things unfit, seems to range, undismayed by his own ignorance, over every department. The object of this building was to secure the domestic accommodation of the Bursar of the University, and his co-operation in the schemes of his patrons. The Theatre was otherwise wholly unnecessary, and its plan and purpose were carried into effect in opposition to the wishes of the Medical Faculty.

Expenses of Management.—The principal feature under this head is the Bursar's Office. The statement of the annual expense of this department is as follows:—

Bursar's Salary	£400	0	0
First Clerk	70	0	0
Second do.	150	0	0
Extra do.	120	17	0
Messenger	30	0	0
Sundries,	109	3	0
	£1000	0	0

That estimate was made for the years preceding 1848, the expense has since considerably increased. This Establishment has all along been a nest of petty sinecuries. The employment of Clerks has been almost solely occasioned by the illegal sales of land. Were these sales put an end to the Establishment could at once be reduced. Although the Bursar enjoys other perquisites from his patrons in the Council, yet his salary is extravagantly large, and is amply sufficient of itself for the maintenance of the Establishment. Under the corrupt system of management, which exists perhaps to a greater extent at the present moment, than at any former period of the management, all the important business of the University is transacted at the Bursar's Office, without any consultation with the Council. The Bursar in a private consultation with one of his patrons in the Council, may in one hour dispose of every acre of the endowment; and it is notorious that large sales have been frequently made at sums much below the value of the lands. The real power of the Bursar is virtually worthless, but it is raised into omnipotence when combined with the advice and instructions of the President and Vice-President. It is an important fact, that at various periods of the trust, the Bursar has kept private accounts between the funds of the University and certain members of the Council, which accounts have not been patent to the other Trustees. His subserviency and co-operation have been purchased by petty favours at the expense of the trust. He has been appointed Steward for the superintendence of the Hall Dinners, with a salary of £60; and for the purpose of giving him a free house to which he had no claim, the Medical Faculty has been deprived of Lecture Rooms and other accommodation at the University. Perhaps the most corrupt feature in the management is the Bursar's Office. Under colour of a pretended discretionary power, which would be illegal if it did exist, but which is at all times at the service of two members of the Council, every species of jobbing and intrigue is carried on. The entire management of the estate seems, indeed, to be carried on upon a system of patronage. The other expenses of management have increased to a ruinous extent since the opening of the University. The Vice-President's expensive taste for lackeys and domestic officials burdens the University with the annual sum of about £1000. The aggregate fees of the Students, during the first and second Terms, amounted to about £500. This sum merely covered the amount paid to Dr Boys as Steward, and was exclusive of attendance, &c., which yield the Bursar other emoluments. The expense of keeping in repair the avenues and grounds amounts to £350 annually. When the Monastic Establishment shall be placed in operation the maintenance of an efficient police may be expected to be a formidable item in the expenditure.

INVESTMENTS.—One of the most flagrant instances of violation of trust of which even the College Council have been guilty, occurred in the accommodation to the Cathedral Church of Toronto. The unvarnished history of this transaction is as follows:—The Churchwardens finding their resources utterly exhausted and being without the means of raising an additional shilling on the security of the Church, applied to their friends in the College Council for an advance of £4000. Such an investment was of course illegal from the funds of a trust; but the College Council being virtually composed of Episcopalian Clergymen, the affairs of the

Cathedral were to them matters of much interest. Previous to this application the greater part of the available assets of the University had been invested in Government Debentures bearing interest at six per cent.; but as the desire to bestow liberally on the Cathedral blended harmoniously with their own interests, the means of propping its declining fortunes were speedily discovered and most unscrupulously used. The requisite amount of Debentures was transferred from the archives of the University to the hands of the Churchwardens; and as the transaction was regarded as a pious accommodation to friends *legal* security was neither asked nor obtained. But the enormity of this fraudulent transaction is to be found in its connexion with a collateral circumstance. *On the very day that the Debentures were transferred to the Churchwardens, a negotiation was opened and completed by the College Council with one of the City Banks for a loan of £4000, to meet the pressing necessities of the University.*

INCOME OF THE UNIVERSITY.—In the Returns submitted to Parliament, the College Council have estimated their annual income, as on the 31st December, 1842, at £11,859 7s. 8d. In the particulars of Income the University is credited with the interest on Government Debentures to the amount of £36,000, but upwards of £10,000 of Debentures have since been disposed of. There can be no doubt that, under a proper system of management, the Endowment would yield the sum stated; and that if the Lands still in existence could be preserved, its increasing value would keep pace with the educational necessities of the country. The estimate of the Council has, however, been formed on a wilful misrepresentation of their true position. Arrears of rents have been allowed to accumulate to the amount of £16,798, and the instalments of purchase money now due amount to no less a sum than £51,747. It has been the practice of the Council to allow the purchase money to remain in the hands of purchasers as long as they pay interest, and in cases where the parties were considered sufficiently simple to submit to the imposition usurious interest has been charged. As the arrears of interest already amount to £18,000 some conception may be formed of the improvident management to which the Estate is subjected. It is, indeed, notorious that an [illegible] instalment will at any time tempt the Council to sell at almost any price, and the remainder of the purchase money is transferred to the depository of arrears. The greater portion of these arrears are irrecoverable; but the Council credit their income with interest on large sums, the principal itself being irrecoverable. No attempt, however, is made to reduce the expenditure to the actual income—but an imaginary income is arranged by the Bursar, and the heavy deficiencies caused by negligence and corrupt management, are filled up by fresh attacks upon the capital. This system is explained in a note to the last returns. "In providing for the annual expenses of the University we must avoid entrenching upon the portion of these receipts (of proceeds of land sold, interest and rents) which should be reserved as capital. On the other hand, *we need not confine our expenditure to the amount of rent and interest actually received*; for from the mode in which we sell property by instalments, the interest on which is recoverable only as the instalment becomes due, and not annually upon the purchase money outstanding; we may fairly expend part of the early instalments received, in anticipation of the interest accruing on the more distant instalments, which, when they become due, yield their accumulated interest.* The introduction of this note was intended to give an air of plausibility to a system of spoliation. No attempt has ever been made by the Council to adapt their expenditure to the amount of rent and interest money already received or anticipated. The expenditure has scarcely borne a due reference to the available capital in the hands of the Bursar; and were the same profuse expenditure to be continued, a very few years will be sufficient to swallow up the Endowment.

The existing Constitution of the Council is in every respect favourable to the designs of certain of its Members. Owing to the absence of the Law Officers of the Crown, the management of the University has fallen into the almost uncontrolled possession of a few Clergymen, who, profoundly ignorant of their value, are recklessly disposing of lands in various parts of the Province, and are binding the Estate by contracts for buildings and imaginary improvements, to meet which no available means exist. Since all hopes of retaining exclusive possession of the Endowment have been shut out, the rashness and extravagance of the Council have known no bounds,—they have not concealed their design of impairing the Endowment before Parliamentary interference can be effected,—and there is every reason to fear that their nefarious designs may to a certain extent, be successfully executed, unless measures are immediately adopted to put a stop to their reckless proceedings.

NOTE.—It was our intention to have carried our narrative over the proceedings of the new Council which has been formed under the Charter; but, for several reasons, we abstain from doing so at present. The short period, however, that has elapsed since the formation of this body, has been sufficient to develop its true character, and, as the whole of its recent proceedings are likely to be made the subject of parliamentary investigation, we [illegible] [illegible] upon the [illegible] of the country. When the investigation shall have been made, we feel assured that its result will warrant a Supplementary Chapter to our history.

In the meantime, it is due to the disinterested minority in the new Council to state that the profligacy of the old management has not intruded itself upon the new without a strenuous and honourable opposition. It will scarcely appear surprising that persons, some of whom had recently arrived from England, and were in all degree strangers to the corrupt practices of the College Council, should have shuddered at the idea of countenancing that [illegible] wholesale misappropriation of the revenues of an educational endowment, or that the [illegible] which they gave to a base system of plunder should have aroused the vengeance of the [illegible] faction. We shall just have occasion to [illegible] some [illegible] circumstances [illegible] reference to those proceedings, and in particular to the secret and cowardly misrepresentation, by Dr. McCaul to the Chancellor, of the manly conduct of two of his colleagues, Professors Gwynne and Croft, by whose dismissal without a hearing he hoped to have put an end to a high-minded opposition to his designs upon the Institution. Signal as was his discomfiture, in the refusal of the Chancellor to be made a party to the attempt, it will form a dark stain upon the early history of King's College as a literary institution. It must be recorded that the Vice President signalized the commencement of his usurped power by an attempt to [illegible] two of the Professors having seats in the Council, because they had dared to assert their rights as British Freemen in representing to the Legislature of their country that, in consequence of the Union of the Provinces and the consequent absence of four of the members of the Council, the Charter had become partially inoperative. This extraordinary Vice-President, with [illegible] ingenuity, seized the first occasion of the retirement of the late Ministry to represent to the Chancellor that such a proceeding called for the signal punishment of the petitioners, because, forsooth, it was unprecedented! Good heavens, Dr McCaul the arbiter of our civil privileges! With what nice discrimination the shrewd wisdom of Bacon described a set of characters who seem to have ever had an owl-like propensity to frequent the seats of learning—and who, "knowing little history, either of nature or time, did out of no great quantity of matter, and infinite agitation of wit, spin cobwebs of learning, admirable for the fineness of thread and work, but of no substance or profit." If the leisure of frivolous pursuits will permit the investigation, Dr McCaul will find abundant precedents for an Academic Petition to the Legislature even in the Institutions which he affects to admire without the ability to understand. We shall supply him with at least one remarkable instance.

On 21st March, 1834, Petitions to both Houses of the English Legislature were presented by Earl Grey and the Hon. Spring Rice respectively, from sixty-three members of the Senate of Cambridge, all of whom were members of the Established Church of England. They were signed by two Heads of Houses, by ten Professors, (among whom were some of the most eminent members of the University of Cambridge,) and by eleven Tutors of the different Colleges. In reference to the character of the persons by whom the Petition was signed, it will be sufficient to state, that, among the Professors, were Airy, Musgrave, Lee, Henslow, Babbage, and Sedgwick, the last of whom had the year before distinguished himself by an eloquent, and by Cambridge men thought to be a triumphant and unanswerable defence of the character, studies, and pursuits of Cambridge. Among the Tutors were Messrs. Peacock, Romilly, and Thirlwall—the latter one of the most eminent classical scholars in Europe. The Petitioners in fact embraced the great majority of the intellect and talent of the University. They complained generally of the system which exists at Cambridge, and which they considered inconsistent with and prejudicial to the interest of the University and to the general interests of religion. They commenced their Petition by declaring their honest and sincere attachment to the Established Church and to the University, but that "they are impressed with a conviction that no system of civil or ecclesiastical polity was ever so devised by the wisdom of man as not to require, from time to time, some modification from the altered circumstances, or the progress of opinion. In conformity with these sentiments, they would suggest to your Honourable House, that no Corporate Body like the University of Cambridge can exist in a free country in honour or in safety, unless its blessings be communicated to all classes as widely as is compatible with the Christian principles of its foundation. The Petitioners then proceed to state, that, among the changes which they think might be at once adopted with advantage and safety, they would suggest to your Honourable House the expediency of abrogating, by legislative enactment, every religious test exacted from members of the University before they proceed to degrees, whether of Bachelor, Master or Doctor in Arts, Law and Physic." "Your Petitioners conscientiously believe, that if the prayer of this Petition be granted, the great advantages of good academic education might be extended to many excellent men who are now, for conscience' sake, debarred from a full participation in them, though true friends to the Institutions of the Country; and your Petitioners are convinced that this is the best way at once to promote the public good and to strengthen the foundations of the Civil and Ecclesiastical Policy of this Realm. The University is a body recognised by the law of England as a lay corporation, invested with important civil privileges, and on that account resting on [illegible] foundation, which is not in harmony with the moral system of the State. Your Petitioners therefore humbly beg leave to suggest that as the legislative bodies of the United Kingdom have repealed the Test Act, and admitted Christians of all denominations to seats in Parliament, and to places of dignity and honour, they think it both impolitic and unjust that any religious Test should be exacted in the University previously to conferring the privileges of the degrees above enumerated." Such was the change prayed for in a Petition to the Legislature, emanating from the very bosom of the University of Cambridge—from men, of the highest attainments, illustrious and at once—eminently distinguished for collegiate usefulness and University honours, all of whom were deeply pledged and deeply interested in the welfare of the University, and responsible for the due administration of its affairs; and yet a memorial by two of the Professors of King's College, Toronto, simply representing that political changes in the Province had rendered its Charter in some respects inoperative, is made the subject of a secret complaint to the Chancellor, by a weak, but arbitrary, Vice-President, who vainly imagined that he had discovered in this constitutional proceeding the source of exclusive triumph. Was utterance given to a malignant expression by the Duke of Gloucester, Chancellor of the University, when the Cambridge Petition was *presented* to the *House of Lords*? Was it thus that the same Chancellor regarded a subsequent Petition to the Legislature from some of the *Undergraduates* of Cambridge? The memorable words which the Royal Duke used on the latter occasion, should speak daggers to the breast of the Reverend John McCaul: "Young man," said his *Royal Highness*, to one of the Undergraduates who waited on him privately with the Petition, "I disapprove of Undergraduates sending Petitions to the Legislature; but I cannot refuse,—admiring as I do the religious feeling that has animated the Bachelors and Undergraduates,—to act upon the zeal with which I am urged, and the peculiarity of the case. *I have been an Undergraduate myself, and am now your Chancellor—and I will advocate your cause, and present your Petition.*" In similar circumstances, Dr. McCaul secretly suggests to the Chancellor the dismissal of two of his colleagues, because their Petition was "unprecedented!"

If Professors Croft and Beaven had prayed for a change in the constitution of the University, as was done in the Cambridge petition, the fears of the High Church party might have been justly alarmed; or if the matter could have been considered within the walls of the University with hopes of ultimate success, if any power had been inherent, either in the Chancellor or Council, to grant the prayer of the petition, a Vice-President of too narrow intellect to grasp a constitutional principle might have been pardoned for offering a remonstrance to his colleagues, on their passing over the legitimate and academic mode of attaining their object; but had he consulted the practice of those Institutions of whose internal government he seems to be absolutely ignorant, he could never have hazarded the assertion that the proceeding was "unprecedented." From the earliest times, objections have been made by members of the English Universities to the practices which prevailed at them, and charges of mismanagement have been brought in no very measured terms. In Acts of Parliament and in Letters from the Crown, complaints have been made of their absurd regulations. The Preamble of an Act passed in the Reign of Edward VI. very justly begins with declaring "that the ancient Statutes of the Universities are obscure, partially barbarous and semi-barbarous, and that others more intelligible and fashioned more according to the condition of the times, and to the position of the new learning have become requisite." (See Dyer's Academic Unity.) The Vice-President of King's College, Toronto, only sees in such objections an insult to the Chancellor and an "unprecedented" proceeding.

But the real ground of complaint lay in the honourable opposition given by these gentlemen to the disgraceful and ruinous system of mismanagement which has made the University of King's College a by-word in the Province. Dr. McCaul found it impossible to secure their co-operation in passing a Statute for the Vice President's aggrandizement at the expense of the other Professors, and nothing but dismissal could atone for so serious a personal injury. An effort was privately, but ineffectually, made to prevail on the other members of the Council to join in this mean and contemptible conspiracy; but the proposal was indignantly spurned by all except the Bishop of Toronto, who readily shared the odium of the plot and the disgrace of its signal defeat.

During the Chancellorship of Sir Charles Bagot, a Schedule of Salaries and Duties was laid before his Excellency by Dr. McCaul, and which was professedly framed in reference to a statement of the income of the University. In this Schedule Dr. McCaul estimated his own services, as a Professor, at £400—while the sum of £350 was attached to the office of Vice-President. Sir Charles Bagot reduced the salary of Vice-President to £150 and raised that of the Professorship to £500—thus meeting in another form Dr. McCaul's own ideas of his importance. A Statute was prepared by Sir Charles Bagot in accordance with these propositions, and transmitted to the Council. This statute was intercepted and concealed—the Chancellor's severe illness having offered a favourable opportunity for defeating his intentions. On the arrival of Sir Charles Metcalfe, a new Statute was framed by the party in Toronto, in which, taking advantage of the addition made by Sir Charles Bagot to Dr. McCaul's salary, as a

Professor, the sum stated was £300; and also taking advantage of Sir Charles Metcalfe's ignorance of the former Chancellor's arrangement of the salary of Vice President, the sum stated was £[illegible]. Will Dr. McCaul favour an explanation of the discrepancy?

But as the original Schedule of Salaries had been avowedly predicated on a severe analysis of the income, in adding £100 to one part of the expenditure, it became necessary to subtract a like amount from another, and therefore Dr. McCaul modestly and ingeniously reduced the salary of the Professor of Law to £100—being £50 less than the salary of the Junior Clerk in the Bursar's Office. Will Dr. McCaul fairly estimate the value which the public attach to the talents, attainments and efficiency of the Professor of Law and the Professor of Literature respectively?

The Statute of Sir Charles Bagot, which was clandestinely intercepted and cancelled, predicated the salaries of the Medical Professors on a view of the duties attached to the corresponding Professors in the most eminent Medical Schools in Great Britain; and in accordance therewith the late Chancellor pledged himself to these salaries when the appointments were made. The Statute transmitted to Sir Charles Metcalfe was framed with the view of adapting the expenditure to an intermediate job perpetrated by the Council, at a sacrifice to one Professor of £50, and to another of £150 yearly. Will Dr. McCaul explain the circumstances attending the appointment of the Professor of Materia Medica? Will he explain the ineffectual attempt to cajole the Masters of Minor College into an approval of his conduct in a Memorial to the Chancellor, with a view to the union of the offices of Vice-President and Principal—his interference with the Statutes of the late Chancellor—the perpetration of the present Statute and concealment of the former—his effecting the passing of a Statute to add £100 to his income, by getting the person through whose instrumentality he attempted to secure the apparent approbation of the Masters—the tool whom he all along affected to despise—foisted upon Upper Canada College, in violation of his own assurances to Sir Charles Bagot, that he was unworthy of the appointment? These and many other acts of a still more serious character will ultimately have to be answered by Dr. McCaul before the proper tribunal. The time has long gone past when a person in his position could be permitted with impunity to trifle with the sacred rights of the people of Canada, or to use them as commodity for his private aggrandisement.

CHAPTER VIII

THE UNIVERSITY BILL

The introduction of a Bill during the last Session of Parliament, for the more effectual establishment and satisfactory government of the Collegiate Institutions of Upper Canada, was hailed with all but universal delight by the country. Nor was the intensity of the gratification diminished by the consideration that a measure for the more liberal government of those Institutions had emanated from the Local Administration, and that the Bill had been framed by the Attorney-General for Upper Canada—whose enlightened principles of civil and religious freedom—perfect acquaintance with the condition of the country—and ardent sympathy with the feelings and wants of its population—afforded a guarantee for its thorough adaptation to the circumstances which had called loudly for its introduction.

The objects of this Bill were thus recited in the Preamble:—

Whereas a University for the advancement of learning in that division of this

Province called Upper Canada, established upon principles calculated to conciliate the confidence and ensure the support of all classes and denominations of the people, would, under the blessing of Divine Providence, greatly promote the best interests—religious, moral, and intellectual—of the people at large: and whereas, with a view to supply the want of such an Institution, his late Majesty King George the Fourth was graciously pleased by Royal Charter, bearing date at Westminster the 15th day of March, in the Eighth Year of his Reign, to establish a College at Toronto, under the name of King's College, with the style and privileges of an University, and afterwards to endow the same with certain of the waste lands of the Crown: and whereas, with a like view, certain other Colleges and Collegiate Institutions have since then been established in the same division of the Province—one at the same place, under the name of "Upper Canada College," endowed also out of the public lands; one at Kingston, under the name of "The College of Regiopolis," endowed by private means alone; another at the same place, under the name of "Queen's College," or "The University at Kingston," in like manner endowed by private means alone; and another at Cobourg, under the name of "Victoria College," endowed by private means, assisted by a Parliamentary Grant—the two latter of such Colleges having likewise the style and privileges of Universities: and whereas the people of Upper Canada consist of several and various denominations of Christians, to the members of each of which, without distinction, it is desirable to extend the benefits of an University Education, and to maintain the just rights and privileges of all, without offence to the religious opinions of any, by leaving the teaching of Divinity and the education of the Clergy and Ministers of Religion to Collegiate Institutions incorporated into the University, but retaining their several Charters, in connection with the different Churches, or other religious bodies contemplated by their Founders, as declared in such Charters respectively: and whereas, by an Act of the Provincial Parliament passed in the Seventh Year of the Reign of his late Majesty King William the Fourth, the Charter of the said first-mentioned College was in certain particulars altered and amended with a view, as the Preamble to the said Act recites, to meet the desire and circumstances of the Colony: and whereas, for the more complete accomplishment of these desirable objects, it is expedient to repeal the said Act, and to substitute several other provisions in lieu thereof, for the purpose of providing for the separate and more efficient exercise of the Collegiate and University functions of the said Institution: and whereas, with a view to the same objects, it is also expedient to alter and amend in several particulars certain other Acts of the Parliament of this Province referring to others of the said Colleges and Collegiate Institutions respectively, to incorporate such Institutions with the said University, and to transfer to and vest in such University the sole power of conferring Degrees in the several Arts and Faculties in Upper Canada, and to make some other provisions for the efficient establishment and satisfactory government of the said University: Be it therefore enacted, &c.

It was of course to be expected that a measure subversive of the designs of the High Church party in reference to the University should meet with considerable opposition; but, singularly enough, that opposition was confined to a minority of the College Council, and with the exception of a Memorial to the Legislature by the Episcopal Bishop of Toronto, and an argument by Counsel at the Bar of the House, in behalf of the Bishop and two of his clerical co-adjutors, not a murmur of dissent from the principle of the Bill proceeded from any part of the Province. And but for the singular events which abruptly terminated the Session, the Bill would unquestionably have become the law of the land.

The argument of the Hon. W. H. Draper, at the Bar of the Legislative Assembly claims attentive consideration, not only on account of the eloquence and high legal attainments of the speaker, but as embodying all the reasons that could be effectively urged in support of the claims of the party whom he represented. It would be supererogatory to follow the learned counsel in his objections to the details of a measure no longer before the country; but as there can be no compromise of the *principle* contained in the University Bill, in whatever shape it may again be submitted to the Legislature, it may not be improper to conclude this historical sketch with an examination of those constitutional questions affecting the prerogative of the Crown and the legitimate functions and powers of the Provincial Parliament, which formed so considerable a portion of Mr. Draper's argument.

As a question of constitutional law, the jurisdiction of Parliament in reference to the University Bill must necessarily be argued on the assumption that the powers and functions of the Provincial Parliament in local matters are co-ordinate with those of the British Legislature in matters affecting British interests. For if this position be not conceded, the analogies and precedents, which Mr. Draper has drawn and adduced from British practice, must fail in their application, where special rules for Colonial Government exist.

Assuming then that the Canadian Legislature has been endowed with powers, or rather that there are inherent in its constitution powers, corresponding with those exercised by the Legislature of England, what analogies and precedents are furnished by British practice for the two leading propositions which Mr. Draper has laboured to establish:—*First*, "that the Legislature cannot, without infringing on the prerogative of the Crown, erect a new Corporation with University powers and privileges;" and *second*, "that it cannot (excepting as an act of will and power unsustained by reason or principle) deprive a Corporation of the rights and franchises which the Crown has legally granted to it, or in any way interfere with them without the consent of such Corporation."

The first of these propositions proceeds on an hypothesis—an assumed principle which Mr. Draper has not attempted to prove—that the University Bill asks the Provincial Parliament to exercise a creative power by calling into existence a new University, with all the privileges, immunities, and rights, which usually belong to such corporations. But the Bill assumes no such position. It treats the University as pre-existent and actually in operation under a Royal Charter; and it not only invades no privilege or franchise formerly granted, but it actually gives such privileges and franchises further protection and extension by adapting them to an enlarged sphere of action. The Bill involves neither the destruction of one University nor the creation of another—it merely provides for a union of the University privileges which had been previously granted by the Crown to separate Corporations, and, by the union and co-operation of powers and privileges, it attempts to infuse vigour into rival institutions, whose vitality had languished under a separation of interests. If therefore there be any privileges peculiar to Universities which it is the prerogative of the Crown alone to confer—privileges which are unknown to Statute, and independent of Parliamentary aid—their constitutional source has been amply recognised by the Bill.

But no such privileges in relation to Universities are known to exist. Mr. Draper has throughout his argument laboured to throw into the shade the creative power of Parliament in creating corporations, and then by skilfully taking advantage of the obscurity in which the origin of the ancient English Universities is involved, he has attempted to draw an imaginary distinction between the corporate character of literary and of other civil corporations, for which no constitutional or legal analogy exists.

That the crown has the power to erect corporations, and to endow them with privileges and franchises is undoubtedly correct—but Mr. Draper, and not the law of England, has invested the Crown with the *peculiar* prerogative. Lord Coke lays it down that, "corporations may commence and be established three manner of ways, viz., by prescription, by letters patent, or *by act of Parliament*."—(1 Inst. 250.) and every institutional writer since his time has adopted the same enumeration. Mr. Justice Blackstone does indeed *state*, in the passage cited by Mr. Draper, (after recognising the principle as enunciated by Lord Coke, but in terms still less favourable to an absolute or peculiar prerogative, for he merely requires as an ingredient the King's consent, either express or implied) that "it is observable, till of late years, most of those statutes which are usually cited as having created corporations, do either confirm such as have been before created by the King, as in the case of the College of Physicians erected by Charter, 10 Hen. VIII., which Charter was afterwards confirmed in Parliament; or they permit the King to erect a corporation *in futuro* with such and such powers, as is the case of the Bank of England, and the society of the British Fishery. So that the immediate creative act was usually performed by the King alone, in virtue of his royal prerogative."—(1 Com. 473.) But the passage as thus partially quoted by Mr. Draper contains merely an historical and not a legal qualification of the principle laid down in the first part of the sentence which the learned Counsel has omitted to quote, that "By Act of Parliament (of which the Royal assent is a necessary ingredient), corporations may undoubtedly be *created*." And the reason that *till of late years* the immediate creative act was usually performed by the King alone in virtue of the prerogative is to be found in the circumstance that in early times the nature and limits of Parliamentary jurisdiction as applicable to an infinite variety of circumstances, had not been defined with perfect precision, and that the facility of obtaining a Royal Charter was comparatively greater than by Statute. On the other hand, before the sixteenth century the prerogative was supposed to extend to every public case, and was accordingly exercised with an arbitrary disregard of those constitutional restrictions which render it wholesome to public liberty. When Blackstone wrote, the powers of Parliament and the prerogatives of the Crown were both equally understood, and accordingly even that "very orthodox Judge"—as he is called by Gibbon on account of his leaning to arbitrary power—claims for Parliament the *general exercise* of the power which, *till of late years* was usually exercised by the Crown. And since the passage was written the greater number of new Corporations have received their privileges by Parliamentary Statute, in which the "Royal assent is a necessary ingredient."

To withdraw the Universities from the ordinary operations of the law, the learned counsel finds it necessary to resort to an imaginary distinction between collegiate and other corporations. But the law admits of no such distinction among Institutions in their corporate capacity. Although in early times the Universities were considered to be ecclesiastical, they are now regarded strictly as lay corporations. (Lord Mansfield in Rex vs. University of Cambridge.) In this character they seem to partake as well of the nature of civil as eleemosynary foundations—civil in respect of their machinery and government, and eleemosynary in reference to the tenure and administration of their Estate. In a question as to their constitutional modification they must necessarily be treated as civil corporations, and in that character Mr. Draper regards them.

The learned Counsel has wisely refrained from stating the specific privileges enjoyed by Universities which should withdraw them from Parliamentary jurisdiction. That Parliament should exercise a control over their purposes and objects is at least as clear as its undoubted right to control other civil corporations! That Parliament has no power to create learning or talent, may be applied with equal truth to the prerogative of the Crown: but that the power either of the Parliament or of the prerogative, may foster and encourage, and give direction to associations and institutions for the promotion of learning, is a matter of every day experience and practice.

Now, the only privilege which distinguishes Universities from other literary and scientific institutions, is the power with which they are endowed of conferring degrees, which, it may be said, must flow from the Crown, as the fountain of honour. Assuming then that the University Bill really went the length of erecting a new corporation with University powers and privileges,—is the power of conferring degrees ultra vires of the Parliament?

It is very obvious that the assent of the Crown being a necessary ingredient in every legislative act—that assent obtained, the powers which would flow from the single exercise of the prerogative must form a part of the privileges which it is the intention of the legislative measure to confer. But, although the power of granting degrees may be admitted to flow originally from the Crown, as by courtesy the fountain of honour, yet this power by no means forms a part of the prerogative. It may be delegated to a subject—it may proceed from foreign authority—it may spring spontaneously from, or it may be incidental to the subject matter of the institution which assumes the power. In the argument of Mr. Attorney-General Yorke, in the case of Dr. Bentley, he observed, "If the Crown create a University, the power of conferring degrees is incident to the grant. Some old degrees the Universities have abrogated, some new they have erected." Now the general rule of law undoubtedly is, that where a subject matter is granted which has legal incidents belonging to it, the incidents must follow the subject granted. The power of conferring degrees was therefore conferred on the Canadian Institution when the endowment was given and the Corporation enacted by Royal Charter. No parliamentary modification, which does not by express words deprive the Institution of that power, can affect its legitimate exercise; and the University Bill leaves that privilege unimpaired.

But even in the case of the English Universities, it cannot be maintained that the power of conferring degrees has, in every instance, flowed originally from the Crown; and as the application of Mr. Draper's historical argument mainly relies for its strength on the obscurity in which the ancient history of these institutions is involved, it may be proper to inquire somewhat more minutely into their origin than it would have been prudent for him to have done.

In reference to their early origin and peculiar privileges, the Universities of England can scarcely be said to have come within the ordinary operations of English law. The word itself and the thing meant were of European [illegible] and growth, and accordingly some of their privileges—such as that of the Vice Chancellor's Court, which is governed by the principles of the civil law—could only be conferred, or at all events must have been confirmed by statute, inasmuch as the Crown could neither confer nor confirm privileges which were inconsistent with the principles of the common law. The privileges attached to the Universities of Oxford and Cambridge seem to have been similar to those held by the Universities of Paris, Bologna, Salamanca, Louvaine, and other ancient continental Universities. Their origin took place in circumstances common to them all, and their perfect similarity in early times, raises a strong presumption that they were all created in the same manner and by the same power.

The oldest Universities in Europe arose *spontaneously* during the twelfth and thirteenth centuries, and there can be still little doubt that they were all of ecclesiastical origin. The fame of eminent teachers, such as Irnerius at Bologna, and Abelard at Paris, attracted vast crowds of learners or students to the towns where the Schools were instituted. At first the immunities which these Schools enjoyed were merely of a local kind; they sought and had occasion for few peculiar public rights. Their growing importance and the vast concourse of Students from all countries at length made it necessary for them to be possessed of summary powers of discipline and internal government, which were readily conferred by the local authorities; and the Papal and Royal powers would appear to have soon afterwards extended the privileges which they had in the first place acquired from more limited authority. Grants had been executed in their favour by pious and charitable persons for the purpose of maintaining indigent Scholars, and these Grants were, with the privileges which the Universities had assumed or acquired, confirmed sometimes by Royal Charter, but more frequently by Bull. The Pope, indeed, also arrogated to himself the right of vesting them with all their privileges; and prior to the Reformation, every University in Europe conferred its degrees in all the Faculties by authority derived from a Papal Bull. But after that event the Universities assumed to themselves the power of creating degrees. The University of Paris, as well as those of Oxford and Cambridge, existed at first only in the lay Faculty of Arts; the

Faculties of Divinity, Canon Law, and Medicine, were afterwards assumed by themselves.

If then the Universities of England have the power of creating or abrogating degrees at pleasure, what privileges exist which it is the peculiar prerogative of the Crown to create? Their civil law jurisdiction could only be exercised under the authority of statute, for if that privilege had been conferred by the Crown alone, it would have been tantamount to making new laws, which the Crown, as one branch of the Legislature, cannot do without the aid of an Act of Parliament; and again their right to the enjoyment of their property may have been, and actually was acquired by private grant or by prescription.

It is certain that the greater part of the property held by the English Universities was acquired from individuals, and in some instances the heirs of the founders, notwithstanding their Royal confirmation, still possess a visitorial power by virtue of the common law. Both at Oxford and Cambridge these establishments originally consisted of two distinct foundations—the University proper and the Colleges. The former was regarded as founded and privileged by public authority for the general benefit, while the latter were founded and privileged by private munificence for the interest of certain favoured individuals. The University proper existed prior to the Colleges, the former having been instituted for the purposes of education, and the latter principally for aliment and habitation. At Oxford and Cambridge at present the Universities may be said to be in abeyance, or at least to exist only through the Colleges; and this fact has afforded ground for argument to the High Church party in England against the admission of Dissenters, that the Colleges being foundations private to their incorporate members, the Legislature cannot deprive them of their right of optional exclusion, without a subversion of the constitution. But as admission to the University can only be obtained with a previous entrance into one of the Colleges, the dethronement of the Universities and the usurpation of the Colleges have both been accomplished through an illegal suspension of some of the University privileges.

The peculiar constitution of the English Universities it is very important to keep in view, when an attempt is made to draw analogies unfavourable to parliamentary jurisdiction over the University of King's College in Canada. In an elaborate defence of Oxford, its privileges are thus stated:—"There are, moreover, some points in the constitution of this place, which are carefully left out of sight by its reviewers, but which ought to be known and well considered before any comparison is made between what we are and what we ought to be. THE UNIVERSITY OF OXFORD IS NOT A NATIONAL INSTITUTION. It is a congeries of foundations and endowments, some of Royal emolument, but more of private piety and bounty. They are moulded indeed into one corporation, but each one of its twenty Colleges is a corporation by itself, and has its own peculiar statutes, not only regulating its internal affairs, but confining its benefits by a great variety of limitations."

The argument used by the High Church party in England, will however operate powerfully against that urged by Mr. Draper in Canada. In England the jurisdiction of Parliament over the Universities has never been denied—its moral right to interfere with the Colleges which are private foundations has been questioned; and although a Bill for the admission of Dissenters has been passed in the House of Commons by a

That the English Universities have received Charters from the Crown, may be admitted, without falsely ascribing the foundation of Oxford to Alfred, or of Cambridge to an earlier Prince, as has been done by their respective partisans.* Edward I., we are aware, gave a Charter to the Universities, but this was merely a recital and confirmation of the Deeds of foundation previously given by private persons—who, notwithstanding the King's Charter, retained their visitorial powers as founders under the common law.

The power, indeed, which the Crown appears to have exercised in former times over the Universities was very considerable, and it certainly has not been sanctioned by constitutional authorities. In 1549 Edward VI sent down by commission several visitors to Cambridge to alter and reform the statutes of some of the Colleges. This commission was issued however not upon the King's general visitorial power which he exercises by virtue of the common law over charitable foundations where no special visitor has been appointed by the founder, or where the right of visitation, in default of heirs, devolves upon the King, to be exercised by the Great Seal,—but proceeded strictly and was derived from his newly acquired spiritual jurisdiction established on the ruins of the papal authority in England. The power of visitation conferred on the Crown by 25 Henry VIII was also purely of an ecclesiastical nature, and indeed was a mere transference of the power that had been claimed and exercised before that time by the Pope as Head of the Church. In those times Universities were considered to be ecclesiastical foundations, but both the doctrine and the power have since been exploded. The interference of Charles II. by Letters Mandate was an act of arbitrary dispensation which cannot be supported at the present day.

When a proposal was made by William III. of a Royal visitation Lord Chief Justice Holt denied the right of the Crown to interfere, and Lord Chief Justice Wilmot expressed an opinion at once adverse to the right of the Crown and favorable to Parliamentary jurisdiction. "I have long been a warm advocate for our Universities," said Lord Chief Justice Wilmot, "and for that reason perhaps, have been too rigid and severe a disciplinarian, for their existence depends upon the activity and honor of the tutors and heads of houses, and whenever there was

---

large majority, yet, independently of other obstacles, the reluctance of the British Legislature to interfere with rights and privileges privately conferred, may readily account for its temporary defeat in the House of Lords. But in Canada the Endowments and the University are undoubtedly public, and may therefore properly be made the subject of legislation.

* The origin of the English Universities, as traced by the profound research of Mr. Hallam, would appear to be invested with even a deeper shade than that with which antiquity generally enshrouds the early history of literary institutions. The earliest authentic mention of Cambridge as a place of learning, if I mistake not, is in Matthew Paris, who informs us that in 1209 John having caused three Clerks of Oxford to be hanged on suspicion of a murder, the whole body of scholars left that city and emigrated some to Cambridge, some to Reading, in order to carry on their studies. But it may be conjectured with some probability that they were led to take this direction to Cambridge by the previous establishment of some local instruction in that place. The incorporation of Cambridge was in 1231 (15 Henry III.) so that there is no great difference in the legal antiquity of our two Universities.—*Hallam's Middle Ages*, Chap. 9, Part 2.

a total relaxation of discipline, if they either do not take care to learn, or otherwise they connive at idleness, the Parliament must and ought to interfere for the reformation of them as they may merit, and attempt to rescue the rising generation from vice and ignorance by some new system of academical government." Lord Mansfield, in the very case from which Mr. Draper has quoted, admits that "the Crown did formerly exercise a power over the Universities which cannot be supported by any sound principles of law."—(Rex v. University of Cambridge.)

Over all corporate property the Legislature has always exercised a high and special trusteeship; and the prerogative of the Crown is at the same time clearly defined by the common law as consisting in a visitorial power to see whether in the lapse of time the intentions of the founders have not been frustrated. Parliament and the Crown are alike entrusted with the power of erecting Corporations and giving them Charters, the only difference in the practice being in the change effected by the Revolution—that where the power of the Crown was formerly supposed to be sufficient of itself to meet all cases, the Royal authority must in certain circumstances be exercised legally and constitutionally through the medium of both Houses of the Legislature. There can be as little doubt of the power of the Crown (thus constitutionally exercised) to erect and found new Corporations, whether Universities or other civil foundations, as there can be of its constitutional exercise in the abrogation of such laws as have become unnecessary or inexpedient. But whenever a Charter has been confirmed or altered by the Legislature, whether that Charter was originally public or private, the power of the Crown alone is insufficient for its further modification; and hence the dictum of Lord Mansfield in referring to certain new grants which had been made by Queen Elizabeth to the University of Cambridge subsequent to a Parliamentary [illegible] before cited, and which Mr. Draper has twisted and triumphantly quoted for another purpose—that "the validity of these new Charters must turn upon the acceptance of the University." That learned Judge, indeed, lays it down, that the Crown alone cannot take away their rights or give them Statutes or Charters without their own voluntary acceptance,—as was the case between Charles I. and the University of Oxford;—but it may be doubted, notwithstanding the dictum of Lord Mansfield, whether the voluntary acceptance of new Charters by the University would not be illegal, and would not be tantamount to an alienation which could only be effected by the aid of a Parliamentary Statute.

If, however, we are sent back to ancient usages—if we are referred to the wisdom and acts of our ancestors—we cannot doubt on historical grounds that Parliament has not only exercised the full and absolute power of interfering by legislative enactment with the practice and usages of the Universities, but that the Universities of *England* are [illegible] supported and maintained by Acts of the Legislature—that their Charters, privileges and rights are secured by Acts of Parliament—that some of their highest advantages have been conferred on them by the same means—and that the most important right which they legally enjoy—the right of possessing [illegible] formerly belonged to the Catholics—has been conferred by the very instrumentality which the Advocate of "the chartered rights" of King's College repudiates and condemns. In the reigns of Henry VIII., Edward VI., Mary, and Elizabeth, enquiries took place into the condition of the Universities by commission, and the result of each of the commissions was the alteration, by Parliamentary Statute, of the regulations and proceedings of the Colleges constituting the Universities. The Statute passed in 13th Elizabeth, upon which Mr. Draper has laid considerable stress as having been "framed by the authority of the Crown and probably introduced by the Ministers," was in fact the result of one of these commissions, and besides embodying the spirit of the *Statuta Antiqua*, or bye-laws of the Universities, and of the various Acts of Parliament of the Reigns of Henry VIII., Edward VI., and Mary, which have always been regarded as the ancient constitution of the Universities, was also designed to effect various important alterations in their constitution, and was framed not merely with the view of protecting the government, but also of regulating the appropriation of the revenues of the several Colleges. But whether it was "framed by the authority of the Crown," or "introduced by the Ministers," will probably little affect its validity at the present day.

The argument of the learned Counsel as applied to the Irish and Scottish Universities, is equally destitute of legal and historical accuracy. He has passed over Trinity College, Dublin, with the brief observation that it received its Charter from Elizabeth; but had he enquired further into the history of that Institution he would have discovered that it was pregnant with analogies and precedents for the modifications proposed by the University Bill. Passing over its early history,—even so recently as 1785, an Act of Parliament was passed to establish in Trinity College three additional professorships. And in 1793, an Act was framed by Mr. Pitt and was passed by the Irish Parliament for the purpose of modifying the University to an extent which was decried as subverting its "Chartered Rights," and undermining its ancient constitution.

By one [illegible] the Dissenters were admitted into the University of Dublin, without religious tests; but the Roman Catholics had been all along excluded from the offices and honours. Mr. Pitt's Bill was intended to admit the Catholics to considerable rights, and merely excluded them from the offices of Provost and Fellow. Two or three Catholics were, accordingly, upon the passing of the Act admitted to Scholarships; but as the Statute did not in express words take away the oaths of supremacy and the declaration against the invocation of Saints, the Fellows have thought fit to enforce these being taken and subscribed on admission to Scholarship, and have thus prevented the Catholics from aspiring to that honour. The Statute was however passed by a Parliament of which the Provost was a member, and the Representatives of the College were acquiescing parties. So far indeed as the University was concerned there was but one objection and no opposition; and the objection was made not to the jurisdiction nor moral right of Parliament to legislate, but was contended by the party who urged that no Roman Catholic should be excluded from any of the offices or honours. The amendment was proposed by John Claudius Beresford

—a sense of dreadful familiarity to Roman Catholic ears—and in the speech which he delivered on the occasion, he is reported to have said:—"God forbid that I should ever see the pious intentions of the Royal Founders of the University frustrated by any perversion of the privileges or revenues thereof. If it be determined to open the Universities to Catholics, let the British Minister first procure an Act of Parliament to open the English Universities, and then the bitter potion may be more readily swallowed by the infatuated and betrayed protestants of Ireland."

Mr. Draper has omitted any reference to the Roman Catholic College, at Maynooth, which was founded in 1795, *exclusively by an Act of Parliament.*

Nor is the learned Counsel more fortunate in his reference to the Scottish Universities. The University of St. Andrew's was founded by Henry Wardlaw, Bishop of the Diocese, in 1411, and was confirmed by Papal Bull in 1413. The College of St. Salvator was founded by Bishop Kennedy, in 1456; that of St. Mary, by Archbishop James Beaton, in 1537; and that of St. Leonard, in 1512. In 1747, the Colleges of St. Salvator and St. Leonard were united by Act of Parliament.*

The University of Glasgow was established in 1450, by Bull issued by Pope Nicholas V., and it is worthy of remark, issued at the request of James II. More than one Act of Parliament has been passed in reference to this University.†

King's College, Old Aberdeen, was founded in 1494, by Bishop Elphinstone, Lord Chancellor of Scotland in the Reign of James III., and Lord Privy Seal in that of James IV. The King afterwards assumed the patronage of the College. Marischal College, New Aberdeen, was founded after the establishment of Protestantism in Scotland, by William Earl of Marischal, and its deed of foundation was confirmed by Act of Parliament within three months after its execution.‡

The University of Edinburgh was founded by the citizens who obtained a license

from James VI. for founding a College within the city. In 1621, an Act of Parliament was passed, ratifying its various grants, and among other things *authorising the University to confer Degrees.*

---

* "The University of St. Andrew's," says Haldan, "was founded by Henry Wardlaw, Bishop of the Diocese, in 1411. The King, James I. of Scotland, the Bishop, and the friends of the Augustine Priory at St. Andrew's requested the Papal sanction, and accordingly a Bull was issued in 1413, by Benedict XIII., by which it was made a University and a general study for all the Faculties. It received other benefactions from the Church, which were ratified by the King in 1432, and he, at the same time, granted to all its members an exemption from taxes—a privilege confirmed by his successors."

† "The University of Glasgow was established in 1450, by a Bull of Pope Nicholas V., issued at the request of James II.—Authority was given for the institution of the general study of all Faculties, and the University was empowered to grant Degrees, which should be valid throughout Christendom. In 1453, a Royal Charter was granted by James II. with an exemption from taxes and all civil burdens."—*Ibid.*

‡ "Marischal College, in New Aberdeen, which claims to be a separate University, was founded in 1593. The Founder, William Earl of Marischal, directed his Principal to confer the Degree of Master of Arts upon all those who deserved it, and as the deed of foundation has been confirmed by more than one Act of Parliament, the College is an authorised University."—*Ibid.*

Mr. Draper's reference to the Scottish Universities thus completely fails. Not one of these Institutions owed its foundation to Royal Charter, but they were all founded and endowed by private grant, by Papal Bull or by Act of Parliament. All the Scottish Universities were re-modelled under the auspices of Buchanan, at the time of the Reformation, so as to adapt them to the immediate wants of the community. In the course of the last century, Faculties of Medicine and Law have developed themselves; and in 1826-27, a commission of inquiry was set on foot, the result of which has been the adoption of many practical reforms and useful alterations in these Establishments.†

---

* In 1581, the citizens of Edinburgh obtained a license from James VI. for founding a College within the city; and in 1582, aided by various donations, they procured a suitable site for it. The Provost and Town Council were empowered to repair and build houses for the reception and habitation of Professors. The Town Council proceeded to act upon this license, and opened an academy at first under a single Regent, augmenting the number of teachers from time to time, according to the increase in the number of Students. In 1584, the King granted property, not to the College, but to the Magistrates and Town Council, for the benefit of the College; and in 1612, he gave a Charter confirming all that they had done. In 1621, an Act of Parliament was passed, ratifying the Royal Endowments, and the erection of the College as a College for the profession of theology, philosophy, and humanity, and granting in favour of the burgh of Edinburgh, as patrons of the said College, and of the regents and students in the same, *all the liberties and privileges pertaining to any* College within the realm. On this apparently [illegible] the University confers Degrees. The College is in every respect subject to the Magistrates and Town Council of Edinburgh. No constitution was given to it like those of other Universities. The Town Council are the absolute patrons of the Professorships of their own Institution, and of the office of Principal. The College consists of a Principal and twenty-one Professors, of whom twelve are appointed by the Town Council, and eight are appointed by the Crown. The Professor of Botany holds commissions under both. The remaining five are of a mixed nature, but the Town Council has a voice in all. The Senatus Academicus consists of the Principal and all the Professors. This body is not legally constituted by any of the original deeds, but takes upon itself to act only by usage. By the entire subjection of the University of Edinburgh to the Town Council, the Professors are relieved from all care of the financial concerns, and of the lands and buildings. It might be supposed antecedently to experience that such matters would not be well managed by bodies of ordinary men; and the experience of the other Universities, developed in the Report of the Royal Commission of Inquiry on the State of the Universities of Scotland, amply confirms this supposition. The Council not only [illegible] the means [illegible], and thus preserves the University from the abuses of a self-elected corporation [illegible] which [illegible] the advantage of [illegible] among Professors [illegible] any monopoly of teaching, or close [illegible] society against the [illegible]. The Council has the discretion to leave all matters of discipline and ordinary detail to the Principal and Professors, while by its superintending power it can check any such practices as self-governed corporations are apt to fall into, tending to the private benefit of the individual members rather than to the permanent benefit of the whole body.

† The Scottish Commissioners were empowered to inquire into the mode of granting Degrees and of teaching, and were directed "to look narrowly into the exercise of the said Universities [illegible] management thereof." Nor did the Scottish Commissioners [illegible] the donations of some founders. I was one of the

The reference to the University of Durham, and the London University, is not strictly applicable. These Universities are privileged by Royal Charter; but it is inaccurate to say that from this source they derive their existence. Both Universities are strictly private foundations; and on account of the tolerant principles upon which they were established—they were assailed with rancorous virulence by the Academic pulpits. The characters and motives of their founders were maligned and their objects misrepresented in every shape that High Church ingenuity could devise; and with the determined and cordial opposition of the Bishops, the passing of an Act for their Incorporation would have been a hopeless attempt. But the reference to these Universities neither strengthens the one case nor weakens the other. That the Crown has power to incorporate a University, or other civil Institution, may be admitted without admitting an infringement on the right of Parliament to do the same.

In the two instances cited by Mr. Draper from Canadian experience, unwarrantable inferences have been drawn from the facts. He says—"The University of Queen's College at Kingston is founded by Royal Charter, the Act of the Legislature enacting it having been disallowed." But the Act of the Legislature was disallowed on the application of the Trustees of Queen's College, which is strictly a private foundation,—not for the purpose of changing its constitution or powers—not because it had been discovered that Parliament had no right to legislate—but in order that the University might undergo a change in its name, and that it might [illegible] the University of King's College, from the privileges of which the Presbyterians had been unjustly debarred. Upper Canada Academy, now Victoria College, was incorporated by Royal Charter in 1836, and was afterwards, by *Act of the Colonial Legislature*, erected into a College, with University privileges and powers. The application for a Royal Charter in the first instance was occasioned not by any doubts of the powers and functions of the Colonial Parliament, but solely by local circumstances, which shut out for a time any reasonable prospect of obtaining an Act of Incorporation; and Lord Glenelg, then Colonial Secretary, acting under the advice of English Counsel, hesitated even as to the propriety of a Royal Charter, on the ground that the Crown ought not to create any Corporation in the Colony that it was competent for the Legislature to create." The Charter for the incorporation of the Academy was only obtained after assurance had been given to the Colonial Secretary that the Institution was in harmony with the views of the House of Assembly.

If then the question of University Reform depends upon historical and legal precedent, the Canadian Legislature can scarcely hesitate to exercise those powers which have been constitutionally vested in the respective Parliaments of England, of Ireland, and of Scotland, which exist in supreme majesty in the Parliament of

---

subjects of special interest that an enquiry should be made into the [illegible] departures or ramifications, as they are called in the Scotch Law. The Commissioners had also power to enquire into [illegible], and power was given them to frame a Code of Laws and Regulations for all the Universities.

the United Kingdom of Great Britain and Ireland, and which have been expressly recognized by the Imperial Government, as existing in the Colonial Legislature, with the fullest application to the establishment in question.

It surely cannot admit of doubt, that a power must exist in the constitution to adapt laws to the ever-varying wants and circumstances which the moral and physical elements of which society is composed are ever producing. If it be beyond the power of the Crown to interfere with an Institution which has already been made the subject of parliamentary legislation, are its defects, its corruptions, and injurious tendencies at once to receive constitutional protection, and to escape from constitutional control? As there is a moral duty, so there is an inherent power on the part of a government to make the laws of a country conducive to the happiness of its inhabitants; and no law can be properly maintained either after its object has ceased to exist, or after it has become positively injurious. As society is progressive, so the laws which govern it must be adapted to the changes to which it is exposed.

The right of parliamentary legislation over every other branch of the constitution is recognized and proved in every page of the history of England. The attempt would scarcely succeed at the present day to set up divine right, legitimacy, and prescription against the necessities which new interests and new opinions have created. If the acknowledgment was wrung from Charles I. that "the King's prerogative is but to defend the people's liberties," it is scarcely to be denied that the people, through their representatives, are the proper judges whether it should be restrained when it proves harmful. "My Lords," said Holborne in his noble defence of Hampden, "whatever estate is in the king in his politic capacity, is in him as rex, and not in him in his natural capacity; and what is in him as rex is for the benefit of the kingdom."

Yet how idle it must be to argue the constitutional right of parliamentary control over a civil corporation in a country which has received a transcript of the British Constitution, and among a people who inherit from their fathers the noble legacy of England's history and laws. We have but to turn to the maxim on which the succession to the Throne of England depends to find that "the right of inheritance thereto may from time to time be changed or limited by Act of Parliament" (1 *Black.* 191), and to the instances in which that right has been exercised, to be satisfied that when a moral necessity for change may arise, the power to effect it will be found to exist in the Legislature.

"A legislative Act," said Mr. Burke in his argument on the Middlesex election, on the occasion of the expulsion of Mr. Wilkes from the House of Commons by a simple resolution, "a legislative Act has no reference to any rule but these two—original justice and discretionary application. Therefore it can give rights, rights where no rights existed before; and it can take away rights where they were before established. For the law that binds all others, does not and cannot bind the law-maker; he and he alone is above the law." The ultimate power and jurisdiction being thus ascertained to exist in the Parliament, it would be difficult to discover any higher or stronger obligation on the consciences of legislators than the consideration of the public benefit; and therefore in reference to the modifications of a public endowment, the questions that require to be satisfactorily answered, previous to parliamentary interference, are simply,—Is the present system expedient? and have the Trustees discharged their trust with fidelity?

The real question then, before the people of Canada is the expediency—the moral necessity of a change in the present system. And if at a particular period of the history of Canada, when an Episcopal ascendancy was paramount in the Councils of the country, it was deemed expedient to appropriate and set apart a magnificent endowment for educational purposes, and to place that endowment and the direction of education exclusively under Episcopal control, will it be maintained, when the country has, from a diversity of causes, become divided into many religious communities, each community being in the enjoyment of perfect equality in civil and religious privileges, that every advantage from the endowment shall be confined to the Episcopal members of the community, who now form one of the least of the variety of sections—that the privileges attached to the University must be perpetuated for the sole benefit of the original class, and that new aspirants to civil privileges are to be refused a partnership in public rights, either on the ground that their interests were not at one period contemplated and recognized, or that the monopolists refuse their consent to a participation? If the University was intended to be a National Institution, can we look at the numbers, the rank, the wealth, the character and intelligence of those who are excluded under the present illegal system, and say that it is expedient to deprive so large and influential a portion of the community of the benefits of a University education—that it is just or expedient to expose them to the feeling that they are ill used by the laws of their country by being precluded from the enjoyment of benefits which are open to others by the illegal regulations of any particular Establishment? What is the principle involved but the right of every man to religious freedom and liberty of conscience—a right which none dare publicly to controvert, but which the Trustees of King's College have dared to infringe by a secret violation of the law? Is it not enough to prove that the Institution only accomplishes a small part of the purposes for which it was established by law, to shew the propriety and necessity of giving it more enlarged and national usefulness? And is it of no importance to the interests of the country that persons differing in their religious opinions, but agreeing on other subjects, should not be estranged from each other on the ground of creed—that instead of imbibing those principles of toleration and those feelings of Christian charity which a joint system of education would produce, a spirit of hostility should be engendered, by the influence of which they must become more estranged from each other in their literary and scientific pursuits? Can it be expected that the youth, who have been confined during the progress of their education, in the choice of their associates, to a particular Church, will be easily brought to believe, in their riper years, that the Christian virtues and graces flourish and are equally diffused among Christians of all denominations! But, on the other hand, by a combined system of education—by the ties of affection and good will which would be fostered, even the intolerant denominations of their respective Churches, which are the relics of other ages, when parties were brought into collision in the struggle for their civil rights, and for religious ascendancy, would lose all the power which they would otherwise have in perpetuating that negative species of persecution, which robs social life of its cordiality, and invests a public career with half its annoyance and bitterness.

Nor will any remedy less solemn than a declaration by Parliament of the equal rights of all denominations to a full participation in the advantages of the Institution, meet the exigency of the case, or restore public confidence to the Institution, or satisfy the country. Were the Amended Charter complete in its details, and were the complaint confined to a mere perversion of trust, the remedy—whether consisting in the restoration of the trust purposes, or in the punishment or removal of the Trustees—might be found in an inferior judicatory. But it must be recollected that the law,—notwithstanding its recognition of the principle of equality—was conceded and framed by the party favourable to exclusion, and at a political crisis when the best friends of education were unrepresented in the Legislature, and that its gross and glaring defects are such as to render it in many respects useless and inoperative. The law must be so framed as to prevent a corrupt administration—and when badly administered, it becomes the duty of Parliament to remedy those defects, which have exposed it to perversion. The principle of equality, as already recognized, must be guarded by practical and efficacious rules and checks, to secure its healthy operation. And it is no less the duty of the Legislature to watch, with a vigilant eye, the spirit of the age, and adapt its enactments to the changes produced by time, and to exercise a strict surveillance over the administration of the laws, so as to protect their principles from corruption and perversion. Nor does the existence of a subordinate judicatory for enforcing the proper administration of the laws, deprive the Parliament of its judicial adaptation to the least as well as the greatest objects. Its powers and functions, as the supreme tribunal in the State, are applicable, in all circumstances, whether in declaring the meaning of the law with greater precision, or in correcting those mistakes which have occasioned either misconception of intention or corrupt administration.

The argument of the learned counsel assumes that the Bill "proposes to interfere with and take away privileges, liberties, and franchises, which the Crown has solemnly granted under the great seal of the Empire." But what "privilege, liberty or franchise," was enjoyed by the University which was not largely extended by the Bill? No part of the corporation was changed but its name—and what is more common than for a corporation to change its name and retain its powers, rights and privileges? The objects and purposes and subject matter of the corporation remained the same, but an extension of its advantages was proposed by the modification and adjustment of its machinery. It is absurd to talk of disfranchising a corporation, when every end of its existence is clearly recognized, and every power which it holds is legally maintained.

Now, the UNIVERSITY, as a corporation, was preserved in all its integrity, and in the unimpaired possession of its "privileges, liberties and franchises." The other Colleges asked for no separate lands, no charter from hence—they did not even aspire to participation in University privileges, for they surrendered those which they held—they asked no extension of their charters—no new powers which were adverse to the rights already established: all that they asked, and all that the Bill proposed to give them, was, that their students might have the privilege of attending the Lectures in Arts and Sciences established out of a public endowment, and that that endowment might be so administered that such privilege should be enjoyed without offence to their conscientious convictions. The separate Colleges in the Universities of England have been endowed and privileged by private individuals. Surely that which has been done legally in England by the piety or munificence of individuals, may be constitutionally accomplished in Canada, without stretching, to an undue degree, the jurisdiction of the Parliament.

But the argument of disfranchisement can be maintained with little either of grace or effect by the person who framed and introduced the amended law which recognised, to the fullest extent, the very principle which it is the object of the present Bill to reduce more thoroughly to practice. By the introduction of the Amended Charter, Mr. Draper, as a legislator, gave his solemn sanction and personal approval of the principle which Mr. Draper, as of Counsel for the Trustees of King's College, now [illegible] calls upon the Commons of Canada, in the name of their God, their Queen, and their Country, to condemn. Was not the sole object of the Amended Charter to deprive the Episcopal Church of the *exclusive enjoyment* of University "privileges, liberties, and franchises?" Did it not expressly recognise the equal rights of all denominations of Trinitarian Christians to an unconditional participation in these privileges, liberties, and franchises? and have not the Trustees of King's College fraudulently disfranchised the people of Canada of the privileges, liberties and franchises which Mr. Draper's own Statute conferred upon them? And, moreover, did not Mr. Draper's Amended Statute to the fullest extent recognise the power and jurisdiction which as an advocate he affects to repudiate? True it is that the Crown gave its sanction to the amendments—true it is that the Crown invited the cooperation of the Legislature to the improvement of the Charter. But will the invitation of the Crown invest the Legislature with power and jurisdiction which are not inherent in its constitution? Must the validity of Acts of Parliament be tested by dragging from grim and musty closets the uncertain evidence of their having been "framed by the Crown," or of having been "probably introduced by the Ministers"—or if the invitation of the Crown invests the Parliament with the "omnipotence" in the Despatch of a Colonial Secretary to work the charm which the Brief of an Attorney-General is impotent to produce?

But in what character do the Council of King's College appear at the Bar of

the Legislature to protest against a measure for the modification of a public endowment? If the Council of King's College have been invested with franchises, they are of a public nature, and they as well as the endowment to which they are attached, are held in trust for the benefit of the whole community. There is an obvious distinction between private property vested in individuals as such, and property vested in individuals in the character of public Trustees, and therefore held by them only for the public benefit. There can be no claim on behalf of these Trustees in their own persons, for the University was erected into a Corporation purely for public purposes. Now a Corporation is an ideal being—a legal fiction—an incorporeal shadow endowed with vitality and power solely by the creation of the law for the purpose of holding rights in trust for the public interest. If any of its Trustees are in the enjoyment of a life-rent, there is to that extent a personal right, but otherwise there is simply a Trust which must be held and exercised for the public benefit.

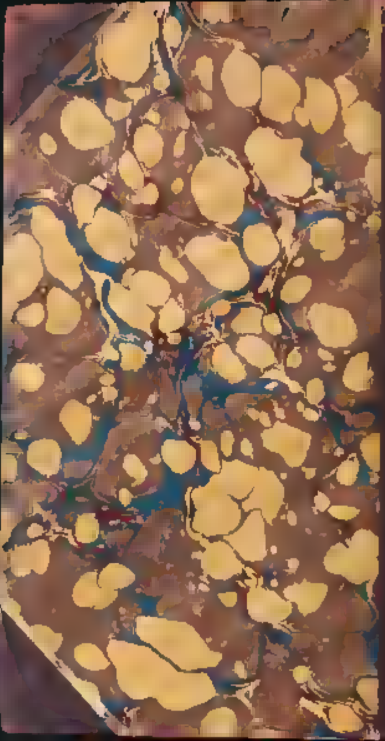
But as all Trusteeship pre-supposes confidence between the parties, when that confidence is lost, the office of Trustee may be recalled. For the Trustee can have no personal interest in the estate in virtue of his office, and therefore the interest is solely in the parties for whose benefit it is held. In the present instance the beneficiary right is vested in the public, who must therefore be possessed of the power to remove their Trustees. The resumption of the endowment would in fact be nothing more than the removal of the Trustees, even were that endowment to be applied to other than Academical purposes.

The distinction between the right to private property vested in individuals either personally or as Trustees (or as in the case of the Collegiate Institutions of Lower Canada, which are expressly endowed not for national, but for Roman Catholic purposes, and in that character are guaranteed by the faith of the Empire), and property vested in individuals in the character of public Trustees will always be recognised by the Legislature. Parliament has the power—and it occasionally exercises the right of interference with either; but on private property it will seldom legislate, unless where its existence or purposes are positively injurious—as when it is taken collectively in the case of Parliamentary taxation—while over public and corporate property it exercises a special trusteeship as to its management and direction. And if it be convenient for the Parliament to recall or modify a public trust, are the Trustees to be entitled to say that they ought to keep it for their own purposes? Is a public reformation not to be accomplished without bringing certain Trustees into connivance? Or does it follow that the Parliament are necessarily doing violence to adverse claims and titles, simply because certain Trustees have not come voluntarily forward to surrender a public trust which they have scandalously perverted?

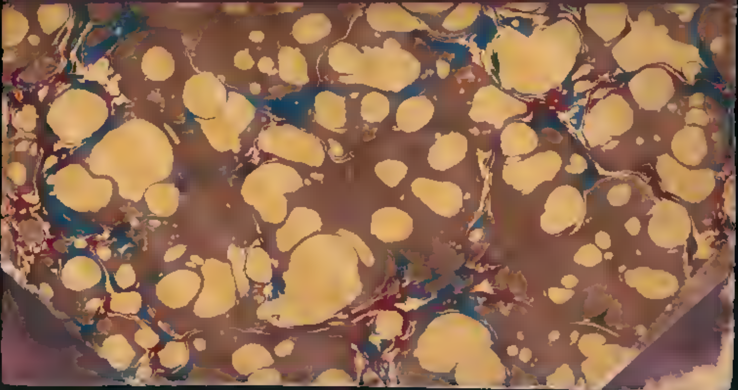
The learned Counsel must have inwardly smiled at the idea of alarming the fears of the Legislature with an argument which he would not have ventured to use in a far inferior Judicatory. If the obstinate resistance of the corrupt Council of King's College is to impede the progress of Parliamentary legislation what ought to have been the effect of a remonstrance from the ancient Burghs of Sarum and

Gatton on the cause of English Parliamentary Reform! And if a Parliament could be found base enough to disregard the protest of the Brethren of Laud against all acts passed in their absence as being the acts of a Parliament no longer free, what amount of temerity will resist "the Memorial of John, by Divine Permission, Bishop of Toronto"?—Alas! we fear such is the arbitrary power now vested in and exercised by our Parliaments that the validity of their acts will scarcely admit of a question, even though the whole Bench of Bishops should record their dissent—or even, as in the case of the Act of Uniformity, the very name of the Lords Spiritual should be dropped from every part of the Bill. If the only opponents of a legislative measure are the unfaithful stewards who have betrayed their trust what better argument could they exact for the legal and moral necessity of a change!

The betrayal of trust and subversion of the law by the College Council, deprive Mr Draper's argument of even the appearance of plausibility. The contest is not one between the people of Canada and the vested rights of the College Council—but between a corrupt Council and the vested rights of the people. All those "privileges, rights and franchises," for which Mr Draper has so eloquently contended, were vested in the community: the College Council have, in violation of the law, perverted them to private purposes; and have had the effrontery to appear at the Bar of the Commons in defence of a contraband traffic with a public endowment. Those who talk of vested rights being invaded or infringed by the University Bill, should look at the original grant—its fraudulent appropriation—the deceptions practised in obtaining the Charter—the long and arduous struggles by the people to reclaim their birthright—the supposed termination of those struggles in the Legislative Act restoring the endowment to its legitimate purposes—and the defeat of those purposes by parties who have neither the capacity nor the integrity, neither the ability nor the inclination to promote any public good. If the system at present in operation were carried on under the sanction of a law, however inexpedient—it might in some respects be defensible as a right—but carried on as it is under a flagrant violation of positive law and on the strength of a usurped power it calls for immediate alteration, as subversive of the legal constitution of the Establishment, and inimical to the interests of the country.



HISTORY OF KINGS COLLEGE TORONTO, [illegible]



THE

ORIGIN, HISTORY, AND MANAGEMENT

OF THE

UNIVERSITY OF KING'S COLLEGE,

TORONTO

—Tros Tyriusve mihi nullo discrimine agetur

'What we want is Liberty—Absolute Liberty—Just and True Liberty—
Equal and Impartial Liberty.'—*Locke.*

TORONTO
PRINTED BY GEORGE BROWN, 142, KING STREET
MDCCCXLIV

2.872
5/3/1440

TO
THE HONOURABLE ROBERT BALDWIN,
LATE ATTORNEY-GENERAL, FOR UPPER CANADA,
WHOSE BILL
INTRODUCED DURING THE LAST SESSION OF PARLIAMENT
FOR OPENING THE UNIVERSITY OF KING'S COLLEGE
TO
ALL CLASSES AND DENOMINATIONS OF HER MAJESTY'S CANADIAN SUBJECTS;
ENTITLES HIM TO THE GRATITUDE
OF EVERY ENLIGHTENED FRIEND
OF
CIVIL AND RELIGIOUS FREEDOM,
THE FOLLOWING PAPERS
ARE
RESPECTFULLY INSCRIBED

INTRODUCTION

Much as the public mind has been aroused to the urgent necessity of a thorough University Reform, it is questionable whether the country is yet in possession of all the facts upon which that necessity is based. It must be admitted that the cry of "vested rights," aggravated as it has been by the legal hypothesis of an ingenious Counsel, has had some effect in diverting attention from the circumstances which sap that hypothesis in the foundation. But that the High Church party should have had the sole benefit of this cry, is more remarkable than that they should have made every use of it. For, if it can be shown that the endowment of King's College was originally granted for the purposes of general education—that the intention of the grant was to establish a *public* institution—and that the University has been perverted to a private and sectarian purpose, by a party at no period friendly to popular enlightenment,—there must be every reason to complain that the "vested rights" of the people have been grossly infringed—and that the monopoly of the Episcopal Church has been fraudulently acquired, and is unjustly maintained. The question at present before the country is not, whether the exclusive claims of that Church, originally founded on justice, are to be invaded by reason of a public necessity, and whether rights honestly acquired, are to succumb to purposes of general utility;—but the true question at issue, is simply, whether the University, as a great national institution—endowed with funds for general education—is to be opened to all classes and persuasions of her Majesty's Canadian subjects—or whether it is to be a monopoly, for the exclusive benefit and advantage of the members of the Episcopal Church.

Such is the principle involved in the contest which is now going on—a contest which ought never to have been excited, and which would have been safely and wisely averted, if just and reasonable claims on the one side had been met in a spirit of enlightened justice and toleration on the other. In urging those claims, the people have no desire to injure the Episcopal Church. Many of them are proud to acknowledge their submission to its doctrine, its discipline, and government, and by some of its warmest adherents, is the cause of justice and toleration nobly maintained. Nor do the other denominations ask any superiority or exclusive enjoyment—all that they desire is, equality of privileges in this seat of learning and science; and in pressing this equitable claim, they only seek to have the University restored to the purposes of its original foundation, and to have it adapted to the character and spirit of the present age, which abjures monopolies and exclusions.

It cannot be denied, that recent events have given energy and direction to these claims—and that the reckless conduct of the monopolists has invested with an imperious character the demand to have the monopoly broken up. The fact that the interests of the University have been sacrificed to schemes of personal ambition and private aggrandizement, and that a noble institution munificently endowed has been plunged into irretrievable difficulties, by a system of gross and glaring mismanagement—has excited a deep and general feeling of indignation throughout the province in which the members of the Episcopal Church have largely participated.

It has now become too obvious, that the people must have some other security for their chartered rights than the parchment skins on which they are recorded—and that Legislative enactments are of little value if their execution is to be entrusted to individuals, whose object and interest are to undermine the principles upon which they are framed. It would be a mere mockery to offer any measure of delusive liberality, by which the governing power of the University was not completely changed, and by which those who have violated faith with the people and with the crown, should not be made to suffer the consequences of their derelictions.

Before King's College can exhibit a vigorous and healthy advancement, and produce the fruits of a complete and generous education, it must at once be freed from the system of despicable proselytism which at present both fetters its energies and degrades the morals of its youth, and relieved of the management of those individuals who have so grossly perverted the objects of the institution, and who are now clinging with convulsive tenacity to the power which they have iniquitously abused.

There is every reason to believe that an attempt will be made by the High Church party to defeat the principle of the University Bill by bribing the leading sects into silence. But to any such unprincipled scheme which would sacrifice the permanent interests of the country to the temporary and pecuniary advantage of particular sects, the people of Canada will assuredly offer the most uncompromising opposition. Full, free and unreserved participation in the benefits to be derived from the University, is the BIRTH RIGHT of every individual in this country, to whatever sect he may belong; and if any man shall be found base enough to sell the civil and religious privileges of the Canadian people, which are the property neither of sect nor of party, for a sectarian or personal advantage, his perfidy will be visited with the execrations of the country and of posterity, and with the contempt of the party who may purchase his degradation.

The great feature of the University Bill was its avowed hostility to all sectarian monopoly. Its object was to make the University a general and NATIONAL INSTITUTION;—an Institution in which the youth of all classes and persuasions might freely mingle, and where, by being combined in their amusements as well as in their studies and pursuits, they might be permanently united in the bonds of friendship and good feeling;—an Institution in which might be nurtured and developed those generous feelings and affections which would mitigate the burning animosities that the conflict of opposite interests might afterwards engender, and which would divest future opposition of its acrimony and its bitterness

It is time that this great subject should be viewed apart from all sectarian interests, and that it should be contemplated exclusively in its important bearing on the destinies of this Province. In a country so divided by religious opinions, and where the influence and intelligence of the different sects are so nearly balanced, it is of the highest importance that its public institutions should be sufficiently comprehensive to permit of and to encourage free and unreserved intercourse between the classes. And where can such intercourse and communion be so happily and so completely effected as within the walls of a University where all denominations of Christians would mingle and be educated under one general system, and where, by associating together at the most interesting season of life, they might lay the foundations of future intercourse and mutual good will, so essential to the well-being of all society, and which are by no means incompatible with differences either in religious faith or political opinion? By such an amalgamation of classes in the combined education of the Canadian youth, we might expect to see the asperities of religious and political differences softened down—the lines of division gradually obliterated—prejudices abated and adverse feelings reconciled.

The grasping conduct of the High Church party has indeed perplexed this subject with considerations extrinsic of its own merits, and on none of the important interests of this country has the baneful influence of that party operated to a more injurious degree, than on the progress of general Education and the successful establishment of the University. It is abundantly evident that if King's College be permitted to retain the sectarian and exclusive character which has been falsely imposed on it, and if the other denominations are excluded from a participation in its benefits—whether by their own self-abasement or by the powerful opposition of unscrupulous foes—the various sects will either renew their exertions to obtain the same benefits in other establishments instituted in conformity with their own opinions, or large numbers of the youth of the Province will be driven for their education to foreign Seminaries. But will the country submit to a compromise which will involve the necessity and danger of a separate education for each section of its varied population, which will array them in a hostile attitude one against another, each thinking the other an individual with whom it would be unsafe to associate; the one claiming a superiority to which he is not entitled, the other struggling and resisting under an undeserved inferiority? And has the country generally no interest in seeing that its youth are educated within its own territories, and in taking care that their instruction is not such as may tend to alienate from its institutions those in whose individual genius and integrity it may repose confidence in the hour of difficulty and danger?

Let not the party who would offer such a compromise imagine that the acceptance of their unprincipled bribes by any of the sectarian leaders would set this question finally at rest; for even should the present generation basely barter its rights, posterity will rise to reclaim them; and while a remnant of the endowment is perverted to a sectarian purpose, the struggle for equality will be perseveringly maintained. The purchase of temporary repose would be a transient delusion, renewed demands would be made upon the endowment—each successive demand with as much justice as the first, and the Institution would only be relieved from assaults when participation in its benefits was no longer an object of desire.

No compromise—no fraudulent settlement, nor base bartering of rights, will terminate the struggle for principle, or diminish the resistance to a sectarian ascendancy. That resistance will not cease, till the portals of the University shall be thrown open, and all classes and denominations shall, in the words of Locke, have "LIBERTY—ABSOLUTE LIBERTY—JUST AND TRUE LIBERTY—EQUAL AND IMPARTIAL LIBERTY."

CHAPTER I.

THE ORIGINAL GRANT

The first public movement, in Upper Canada, towards obtaining a provision for educational purposes, was made in 1797, when the Legislative Council and House of Assembly concurred in a joint Address to King George III., "imploring that his Majesty would be graciously pleased to direct his Government in this Province to appropriate a certain portion of the waste lands of the Crown, as a fund for the establishment and support of a respectable Grammar School, in each District thereof, and also a College, or University, for the instruction of youth in the different branches of liberal knowledge." To this address a favourable answer was transmitted, in a despatch from the Duke of Portland, to the Honourable Peter Russell, then at the head of the Local Government, in which his Grace communicated his Majesty's "most gracious intention *to comply with the wishes of the Legislature* of his Province of Upper Canada, in such manner as shall be judged to be most effectual." With this view, Mr. Russell was directed to consult the members of the Executive Council, and the Judges, and Law officers of the Crown, in Upper Canada, and to report to his Majesty's Government, "*in what manner and to what extent* a portion of the Crown Lands might be appropriated and rendered productive towards the formation of a fund for the above purposes." On the 1st December, 1798, the Executive Council reported to Mr. President Russell, that an appropriation of 500,000 acres, or ten townships, after deducting the Crown and Clergy sevenths, would be a sufficient fund for the establishment and maintenance of the royal foundation of four Grammar Schools, and an University, and that the proposed School fund should, when raised, be applied:—

1st. For the erection of the necessary buildings.

2nd. For the payment of the salaries of the Masters.

3rd. For keeping the buildings in repair, the purchase of books and philosophical apparatus, and other purposes essential to places of education, but in general too costly to be provided by individuals.

The Council also reported that the towns of Cornwall, Kingston, Newark, and Sandwich, were, at that time, the most proper places for the sites of the four Schools, and that they considered York as entitled to the University, both as being the Seat of the Executive Government, the Legislature, and the Courts of Justice; and as being by far the most convenient spot in the province for all general purposes—its situation being nearly central, and besides its accessibility by water, the then proposed high road from the one end of the province to the other being necessarily to pass near it, or through it. The Council proposed that two of the Schools—namely those at Kingston and Newark, should be commenced first; and that, whenever the appropriated fund should be found sufficient, the towns of Cornwall and Sandwich should each receive a similar mark of the Royal munificence. In this manner they conceived that the lands thus appropriated would not only be amply sufficient for the establishment and support of the four Schools, but would be nearly, if not quite adequate to the erection and endowment of the University, whenever the advancement of the Province should call for such an Institution; and they recommended, that the provision for the establishment and maintenance of the University should, at least, be equal to that of the four Schools taken together.

The precise details of the action which was taken upon this Report cannot now be ascertained; but it will be observed that the original instructions are sufficiently indicative of the intention of the Home Government to place the educational seminaries and their endowments under the control of the Local Legislature, at whose suggestion the appropriation was made.

In consequence of the reckless profusion of grants which placed the wild lands of the Province in the nominal possession of a few proprietors, who could neither use them themselves nor render them subservient to the promotion of any public purpose, the sale of lands and the advancement of the country were very slow; and consequently for more than twenty years after the original appropriation, the School Lands remained totally unproductive. In 1806, the Legislature, to show that something more than Grammar Schools was required, did all their limited means then permitted, in providing a small apparatus for the instruction of youth in physical science; and in 1807, a temporary act was passed by the Provincial Legislature, and made permanent in 1808, providing for the establishment of a School answering to a Grammar School, in each District. The School Lands, however, afforded no aid to the District Schools, which were irrespective of the general endowment, and for the maintenance of which the Legislature was compelled to provide otherwise. In 1816, a law was passed for the further improvement and extension of Common Schools. This act was limited to four years continuance; and when renewed in 1820, several amendments were introduced which detracted very much from its value, particularly one which greatly reduced the appropriation.

The reduction referred to was the consequence of the arbitrary and exclusive views which had for sometime manifested themselves in the proceedings of the Executive Government. The High Church party had long monopolized all office and influence; and it is rarely that that party have given a willing support to any general system of Education. Least of all were they likely to afford any countenance to a scheme by which its blessings would have been equally diffused among all classes and denominations. They foresaw that if so valuable an endowment as the School Lands might eventually prove, were left to the disposal of the Legislature, the country would in all probability receive a popular system of Education, unfettered by party or sectarian restrictions, and that a favourable opportunity would thus be lost, of placing the ascendancy of the Episcopal Church on a solid foundation. In 1818, the growing importance of the School Lands attracted the attention of the Government, and the attempt was then made unfortunately too successful, to defeat the object of the grant by fraudulently diverting it from its original purposes. Without the consent, and indeed without the knowledge of the Legislature, by whom the School Lands had been held in trust, certain members of the Executive Government, among whom was Mr. Strachan (then a leading member of the administration), secretly planned and effected an arrangement by which the people generally might be deprived of all benefit from the endowment, by which the Legislature might be divested of its control, and by which the erection of the Grammar Schools might be postponed to an indefinite period in favour of an Episcopal University, established on such exclusive principles as would benefit only the party to which the members of the Government in those times invariably belonged. A fraud more disastrous to the people has not been perpetrated in the worst periods of Provincial corruption, but the secrecy with which it was devised and executed, effectually protected it from the opposition of the Legislature. The scheme was not once mooted in Parliament, and this robbery was consummated without a single voice being publicly raised in defence of the people's rights.

A Committee of the Executive Council, on 7th January, 1819, reported that no trace of any answer to the Report of the Council of 1st December, 1798, could be found in the Council Office; that as they were of opinion with the Attorney General (Mr Robinson) that the appropriation of land was not sufficiently sanctioned to authorise a grant in other portions than limited by his Majesty's Commission, they thought it proper to recommend that his Excellency Sir P. Maitland should call the attention of his Majesty's Government to a formal sanction to "sell, lease, grant and dispose of the 500,000 acres of land for the purpose of establishing a University, as provision for District Schools was not by them thought necessary out of this fund, their establishment and maintenance having been already provided for by the Legislature; and that in order to construct the necessary buildings, the sum of £10,000 would be required, with an endowment of £4000 per annum for the payment of salaries, and that a Commission should permanently attend, with large powers to sell and lease the land and manage its revenues, *under the direction of the Executive Government*." It was also considered, "that it would conduce much to the importance and utility of the projected University *if its Constitution should be by a Royal Charter*."

If the necessity which existed for a University at the time when the population of Upper Canada did not exceed 145,000, and when private enterprise and public improvement were checked by every species of jobbing and extortion on the part of the Government, is it to be estimated by the criterion which the parties who concerted the alienation of the School Lands must admit to be a reasonable one—namely, the success of its opening after 24 years of subsequent commercial and agricultural improvement; after the country has quadrupled its population; when the increased value of the lands has enabled the University to enlarge its annual expenditure from £4000 (originally proposed by the Executive Council) to nearly £15,000; when it has gone into operation with means munificent beyond all precedent in the early history of any literary institution in America, and indeed in the early history of any country; with a library, philosophical apparatus, and an array of professors and officers, unsurpassed by any other educational seminary on this continent, and when, after being all along under the fostering care and direction of the very individuals who projected its establishment, it has not been able to matriculate in its first and second terms more than 32 students,—it will appear sufficiently obvious that the Executive Government had other objects in view in effecting the alienation than the general diffusion of Education among the people. If, however, the establishment of a University was then deemed necessary, in consequence of the increased number of young men who were turning their attention to the learned professions, the Government was bound to have sought the means from other sources than the School Lands, of which the Legislature were undoubtedly the trustees, and even if the claim of the Executive Council to the control of the endowment had been well founded, its diversion from the original object was a direct violation of trust, and of the stipulations and agreements which had been expressly made when the appropriation was first proposed. The Report of the Council in 1798 suggested the necessity of establishing the Schools before the University should be proceeded with. It expressly stipulated that in the first place the two at Kingston and Newark should be placed on a permanent and substantial foundation, and that "whenever the circumstances of the Province should call for the erection of two other Schools, and also that the appropriation fund should be sufficient not only to bear the expense of the erection and endowment of those two Schools, but also to leave a residue sufficient for the establishment and future maintenance of a Seminary of a larger and more comprehensive nature, the same steps should be pursued with respect to such two Schools as have been already recommended with respect to the two Schools at Kingston and Newark." But what steps had been taken for the erection of the Schools here proposed? It is true that in 1807 the Legislature, finding it absolutely necessary to make some available provision for the education of the people, had established the District Grammar Schools, but the Executive Government of 1819 were perfectly aware, and none knew better than Mr. Strachan their acknowledged leader, that however liberal the provision might have been when the population did not exceed 50,000, it was quite inadequate to meet the growing necessities of the Province from its increased commercial wealth and population. But if the Legislature, while the School Lands remained unproductive, availed itself of the constitutional means for the diffusion of education by direct taxation, it is difficult to see that in consequence of this step the people forfeited or surrendered their right to the endowment when the lands became available. It was obvious, however, that a popular system of education did not suit the views of the Executive Council, by whom every attempt to introduce it into the Province had been steadily resisted; and the establishment of the University was anxiously regarded as an important feature in the great scheme then contemplated by the High Church party to Episcopalize the Province, and to incorporate the Church of England with the Government, as an appendage to the State.

The acquisition of the School Lands offered prospective benefits of too valuable

a disposition to be left long unimproved by the High Church party. In consequence of a great portion of the endowment having been carelessly selected from indifferent land in remote parts of the Province, it had remained nearly unsaleable. It was therefore proposed by the Council, that in order immediately to place the University on a substantial foundation, the School Lands now appropriated to the University should be exchanged for an equal portion of the Crown Reserves, which were looked upon as immediately marketable. The character of the proposed Institution was at the same time resolved on, and the exclusive Universities of England furnished appropriate models for the erection of this bulwark of Episcopacy. The only danger to be apprehended was the exposure of this nefarious scheme at a time when popular opinion might operate against its accomplishment; but at once to silence popular discontent and to protect themselves from future assaults, the High Church party formed the design of entrenching their position by a Royal Charter, which would throw upon the Crown the odium of this illiberal institution. It was, however, easy to foresee that a Charter adapted to their design would not be obtained without misrepresentations of so gross a character, that ordinary ingenuity and boldness might fail in the attempt, and as His Excellency Sir Peregrine Maitland had refused his consent to the exchange of the School Lands for the Crown Reserves without special instructions from the Home Government, the high and important trust was reposed in Dr Strachan of proceeding to England and soliciting in person from His Majesty's Ministers the private transfer of the people's rights—too sacred to be alienable even by themselves—and which notwithstanding the courage with which he is amply endowed, he would have shrunk from proposing to the people's representatives.

The result of Dr Strachan's mission to England is sufficiently known; but his proceedings while there, form too curious a chapter in the annals of the University to overlooked in this place.

CHAPTER II.

THE ORIGINAL CHARTER.

When application for the Charter of King's College was made Lord Bathurst—a bigoted High Churchman, and odious for his exclusive principles—held the seals of the Colonial Office. In him the High Church party of Canada reposed implicit confidence, and the most revolting proceedings were taken in order that a plausible case might be laid before the Secretary and his colleagues. The Dissenters of all denominations were calumniated and insulted in every shape that the rancorous hostility of the Press, and alas! the servility of the Pulpit, could devise. They were stigmatized as Republicans in their principles, and disloyal in their affections—they were insultingly taunted with ignorance and illiteracy, and were even made the objects of systematic and direct persecution on the part of the magistrates. It was thought, that if his Majesty's Ministers could be impressed with the idea that Dissenters generally were disaffected, measures would be adopted in Canada similar to those which had formerly driven the Puritans from the British shores, and that the Episcopal Church would be secured in those privileges and immunities which were enjoyed by the Establishment in England. Not the least notable of the slanderous effusions of High Church intolerance was a Sermon preached by Dr. Strachan, then Archdeacon of York, immediately previous to his departure for England, on the death of Dr. Mountain, the first Bishop of Quebec. On an occasion of such solemnity, it might have been expected that the shafts of calumny and misrepresentation would have been sparingly used, and that over the ashes of the dead, sectarian hostility would have yielded to milder and holier feelings. For the benefit of those who are curious in High Church eloquence, we subjoin a specimen of the pious denunciations with which this Christian Archdeacon appeased the manes of his departed brother of Quebec:

"Even when churches are erected, the minister's influence is frequently broken or injured by numbers of uneducated itinerant preachers, who, leaving their steady employment, betake themselves to preach the Gospel from idleness, or a zeal without knowledge, by which they are induced without any preparation, to teach what they do not know, and which, from their pride, they disdain to learn.

"When it is considered that the religious teachers of the other denominations of Christians—a very few respectable ministers of the Church of Scotland excepted—come almost universally from the Republican States of America, where they gather their knowledge and form their sentiments, it is quite evident, that if the Imperial Government does not immediately step forward with efficient help, the mass of the population will be nurtured and instructed in hostility to our Parent Church, nor will it be long till they imbibe opinions any thing but favourable to the political institutions of England.

"It is only through the Church and its Institutions, that a truly *English* character and feeling can be given to, and preserved in any foreign possession."

Previous to Dr. Strachan's arrival in England, the Colonial Secretary had been carefully prepared for the extraordinary demand which was about to be made. In a petition to his Majesty and the British Parliament, which he transmitted through Lord Bathurst, the Rector of York announced the following astounding facts:

"That the population, now greatly increased, and embracing in its bosom many denominations of Christians, still retains its prominent feature of being attached to the Church of England, the members of which, together with the Dutch and German Lutherans, who join them in communion, comprising by far the most numerous description of Christians in Upper Canada.

"That the very little progress made by the other denominations, compared to that of the Church of England, and the very recent establishment of *their* scanty congregations, has generally created in the minds of the people a veneration for it, as the established form of worship, *in light in which it has always been presented* [by the Doctor and his *friends*], *to the inhabitants of this Province*, *from their earliest years.* Such is now the state of the Province, and its desire for religious instruction according to the forms and discipline of the Church of England, that many intelligent persons well acquainted with the Colony are of opinion, that along the greater part of the main road passing from one extremity of the Province to the other, a distance of nearly 600 miles, a Church might be erected, and a Clergyman profitably placed at the distance of every ten miles, and this exclusive of the parishes already established.

"That when new missions are planted in any quarter, not only those persons readily join who are not particularly attached to any denomination, but even Presbyterians and Congregationalists attend public worship with their families, so that on many occasions the whole neighbourhood becomes united to the Church; and not only are their dead buried according to its rites, but likewise the bodies of their friends and relations are frequently collected from private places of interment, and again consigned to their graves in the public burial ground, with the solemn offices of the Church. Moreover their children are baptized and educated in the bosom of the Church, and the greater number at length confirmed by the Bishop; and a congregation is thus in a few years formed, strongly attached to our venerable Establishment; and even in those remote parts of the country where Methodist itinerants are the most active, so soon as the population is sufficiently compact to admit and require the ministrations of a regular Clergyman, *he finds his congregation increasing by the gradual accession of their more respectable adherents.*

"*That the Church is increasing so rapidly as to offer great encouragement to respectable families to bring up their children to the sacred profession; accordingly a list of more than thirty students now lies before your petitioners, and many more young men than can possibly be provided for, are presenting themselves* to the Lord Bishop as candidates for Holy Orders."

"No objection is made by parents against teaching their children the Church Catechism and the service of the Church from the Book of Common Prayer; on the contrary, all denominations are desirous of obtaining both, for their own and their families' edification. The whole neighbourhood bring their children to the resident Clergyman to be baptised, and submit in great numbers, both old and young, to the rite of confirmation; send their youth to the Sunday Schools, and allow them after their tasks are heard, to walk in procession to the Church. In fine, there evidently appears the fairest prospect that the Church of England, from the favourable disposition that now exists towards it, will be able to collect within its bosom the bulk of the inhabitants, *should no prospect of supporting their Clergy* be held out to the various Protestant denominations.

"That, with the exception of the Methodists, who have been deserted by their brethren in England, and left for instruction to itinerants from the United States, there appears no prominent denomination of Protestants in this Province, but the Established Church, capable of exciting public attention.

"There is no appearance in any other part of the Province of a third congregation in communion with the Kirk of Scotland being formed; nor is this denomination popular, for when the people leave the Established Church they claim the privilege of electing their minister from whatever quarter they please, which the Kirk denies them. Indeed the Presbyterian form of discipline and Church government is inconsistent with extension, as it cannot be complete out of Scotland, nor can its clergy be placed in a distant colony under vigilant superintendence."

Immediately on his arrival in England in 1826, Dr Strachan placed himself in communication with the leaders of the High Church party, from whom he solicited contributions in aid of the funds of the University, and their influence and assistance in obtaining an exclusive Charter. In England he openly avowed the design which he dared not to have breathed in Canada. In a pamphlet, which he published in London, entitled, "An Appeal to the Friends of Religion in behalf of the University of Upper Canada," he distinctly stated that it would be essentially a Missionary College "for the education of Missionaries of the Church of England"—and, as an inducement to the members of that Church to contribute towards the funds of the College, he maintained, that the effect of establishing this University would be ultimately to make the greater portion of the population of the Province members of the Church of England.

To the various parties with whom the Reverend Doctor communicated privately, he urged every variety of argument, and, without much regard to consistency, he adduced every variety of fact. From the Society for the Propagation of the Gospel in Foreign Parts he claimed assistance on the ground of his "*having been instrumental in establishing a scheme in Canada, by which the education of the whole population is virtually under the direction of the Church.*" He informed them that there were in this Province "300,000 British Protestants" (meaning of course members of the Episcopal Church), and that the only antagonising influence with which they had to contend was the existence in Lower Canada of 400,000 Catholics. To the Church Missionary Society he repeated much of this invaluable information, and by way of showing that the establishment of a University in Upper Canada was correlative to their zeal in propagating Christianity among the heathen, he enlarged upon his own tender and paternal feelings towards the Indians, and actually acceded to a proposal for the Establishment of Scholarships, with suitable professors, for the exclusive benefit of the Tribes.

But the most elaborate information in regard to the Ecclesiastical Statistics of the Province was contained in a Letter and Ecclesiastical Chart which he transmitted to the Hon. R. J. Wilmot Horton, then Under Secretary of State, upon which communication he grounded the exclusive claims of the members of the Church of England to the benefits of the Clergy Reserves and the University. In the Chart he stated that "in connection with the Established Church there were 39 clergymen, 58 places where there was regular or occasional service, exclusive of frequent journies taken by the missionaries to the new settlements in their neighbourhoods—45 churches, and 31 regular parishes." That there were 7 ministers of the Independent or Presbyterian order "assuming the appellation of the Presbytery of the Canadas, but having no connection with the Kirk of Scotland"—that there were two ministers in connection with the Kirk—and "as the Methodists have no settled clergymen, it has been found difficult to ascertain the number of itinerants employed, but it is presumed to be considerable, perhaps from 20 to 30 in the whole Province. The other denominations have very few teachers, and those seemingly very ignorant. One of the two remaining clergymen in communion with the Church of Scotland, has applied to be admitted into the *Established* Church."

Dr. Strachan's Letter to Mr. Horton, enclosing the Chart, furnishes so much important evidence of the gross misrepresentations upon which the Royal Charter was obtained, that it is proper to quote it at length:

"Sir,—I take the liberty of enclosing, for the information of Lord Goderich, an Ecclesiastical Chart of the Province of Upper Canada, which I believe to be correct, for the present year 1827, and from which it appears that the Church of England has made considerable progress, and is rapidly increasing.

"The people are coming forward, in all directions, offering to assist in building churches, and soliciting with the greatest anxiety the establishment of a settled minister. Indeed, the prospect of obtaining a respectable clergyman, unites neighbourhoods together; and when one is sent of a mild and conciliatory disposition, he is sure in any settlement in which he may be placed, to form the respectable part of the inhabitants into an increasing congregation. There are in the Province 150 Townships, containing from 40 to 500 families, in each of which a clergyman may be most usefully employed, and double this number will be required in less than twelve years.

"When contrasted with other denominations, the Church of England need not be ashamed of the progress she has made. In 1818 there was only one clergyman in Upper Canada a member of the Church of Scotland. The gentleman brought up his two sons in the Church of England, of which they are now parish priests. After his death, his congregation was split in three divisions, which with another collected at Kingston in 1822, count four congregations in all, which are in communion with the Kirk of Scotland. Two are at present vacant, and of the two Scotch clergymen now in the Province, one has applied for Holy Orders in the Church of England.

"The teachers of the different denominations, with the exception of the two ministers of the Church of Scotland, four Congregationalists, and a respectable English Missionary who presides over a Wesleyan Methodist meeting at Kingston, *are for the most part from the United States, where they gather their knowledge and form their sentiments*. Indeed the Methodist teachers are subject to the order of the Conference of the United States of America; and it is manifest that the Colonial Government neither has nor can have any other control over them, *or prevent them from gradually rendering a large portion of the population, by their influence and instructions, hostile to our institutions, both civil and religious, than by increasing the number of the Established Clergy.*

"Two or three hundred clergymen, living in Upper Canada, in the midst of their congregations, and receiving the greater portion of their increase from funds deposited in this country (England), must attach still more intimately the population of the Colony to the Parent State. Their influence would gradually spread; they would infuse into the inhabitants a tone and feeling entirely English, and *acquiring by degrees the direction of education, which the Clergy of England have always possessed*, the very first feelings, sentiments and opinions of the youth must become British."

Deceived by such representations, and unsuspicious of the veracity of the highest Episcopal Ecclesiastic of Upper Canada, the Colonial Secretary, in an evil hour, affixed his signature and the Royal Seal to the Charter in the terms required, and the Archdeacon of York was rewarded with the sum of £1300 for his invaluable and meritorious exertions in behalf of the Episcopal Church.

When a Royal Charter was first openly spoken of in this country, it was generally understood that, as it was then impracticable to have several appropriate Colleges for the different sects, the University would be adapted to the existing state of the Province, and to the wishes and wants of its mixed population.

The consternation and disappointment then were proportionably great when the provisions of the Charter became known, and it was ascertained that the University had been converted into a purely Episcopal College. In his Speech at opening the Parliament, on 15th February, 1828, his Excellency Sir P. Maitland said:— "I have much pleasure in announcing to you, that his Majesty has very graciously provided for the establishment of an University in this Province, and has bestowed means which will answer the early accomplishment of an object, long regarded by me as among those most to be desired for the welfare of the Colony." But to this part of the Address the House of Assembly replied with becoming caution and reserve in the following words:

> "We shall be highly gratified to find that His Majesty has very graciously provided for the establishment and endowment of an University in this Province, if the principles upon which it has been founded shall, upon enquiry, prove to be conducive to the advancement of true learning and piety, and friendly to the civil and religious liberty of the people."

In the meantime, rumours of the exclusive provisions of the charter having transpired, the indignation of the Province was effectually roused. It was willingly believed that His Majesty's Ministers had been deceived by gross misrepresentation, and that if they had been truly informed of the condition of the Province, and the religious views and feelings of the people, the Royal sanction would never have been given to a charter which denied them civil and religious equality. Petitions from all parts of the country were poured into the two Houses of Parliament, representing that the principles of the Charter were inconsistent with the unimpaired preservation and maintenance of the civil and religious rights and privileges of the people. It was thought that a University, adapted to the character and circumstances of the people, would be the means of inestimable benefits to the Province. But, to be of real service the principles upon which it was established should have been in unison with the general sentiments of the country—that it should not be a school of politics or sectarian views—and that it should have about it no appearance of a spirit of partiality or exclusion. That its portals should be thrown open to all, and upon none who entered should any influence be exerted to attach them to a particular creed or Church. That it should be a source of intellectual and moral light and animation, from which the glorious irradiations of literature and science might descend upon all with equal lustre and power. But if King's College under the Charter, formed as it was for the exclusive advantage of a single Church, and that a minor one, should be suffered to go into operation without material amendments in its provisions, and without another College being established for the general benefit of other religious denominations, the inevitable consequence would be that the native youth of the Province, receiving a public education, would, with the exception of Protestant Episcopalians, be generally sent out of the Province to obtain it at Colleges where they would be taught classical learning, and the arts and sciences, without prejudice to their religious principles and feelings. Parents who were conscientious in their profession of religion would not willingly put their sons, in the unguarded season of youth, under a pretext of religious proselytism to a different faith; and the people felt that to be thus excluded from the offices and honours of the only College in the Province, and subjected to literary as well as ecclesiastical domination, for no other crime than that of adhering to the dictates of their consciences, was an unmerited degradation. It was at once perceived that the grand policy of the High Church party to Episcopalise the Province had come into operation, and that this was one great step towards the establishment of a minor Church, with exclusive privileges and resources, over a dissenting majority of the population,—declaring her form of religion to be the established religion of the Province, and her ministers the only Protestant Clergy, granting them civil monopolies and immunities; and a control of the education of youth by means of the University. It was felt that such a system would, as it had been in Ireland, be a perpetual source of religious and political animosity—that it would give one Church a permanent separate interest adverse to the other more numerous Churches—and that all those other Churches, irritated by a baneful monopoly and domination, would be induced to make common cause in their own defence in opposition to the dominant Church.

It was therefore thought that His Majesty's Government could never have contemplated the limitation of its beneficence, by establishing the University upon such terms as must either preclude from its benefits the greater part of those for whom it was originally intended, or subject them at an age ill qualified to guard against such attacks to the silent but powerful influence of a prevailing and vigilant system of proselytism, and that they could not have been aware of the insurmountable objections to which, from the circumstances of the country and the sentiments of the people, some of the provisions of the Charter were liable.

Petitions were at the same time presented to Parliament by various denominations of Christians, praying an inquiry into the truth of the charges and statements made by the Archdeacon of York, relative to the character and instructions of the respective clergy whom he had stigmatized as mixing up sedition with the Word of God. These petitions, with the others, praying for inquiry into the principle on which the University was established, were referred to a Select Committee of the House of Assembly, with power to send for persons and papers, and to report thereon. This Committee performed their duties with the strictest impartiality. Before proceeding to the examination of the Letter and Chart, the Chairman transmitted to Dr. Strachan a copy of one of the petitions referred to them, and informed him that they would be happy to receive from him any information upon the matter submitted to their consideration. To this communication Dr. Strachan returned an answer, declining to avail himself of the Committee's offer to receive explanations, but adhering to the statements which he had made in England. "For my opinions," he wrote, "I am responsible to no one. I had no desire to conceal them, and they were therefore publicly and openly expressed. No consideration could have prevailed upon me to deny or mis-state them; but in applying them, every candid mind will feel that the general expressions used admit the existence of exception. I desire it only to be borne in mind, that *they* *were given from memory*," a circumstance which Dr. Strachan thinks appropriate to conceal from Mr. Horton. The Committee framed a list of fourteen questions, and examined in all fifty-two witnesses. Among the witnesses were all the Members of the House of Assembly, whose testimony they could obtain; some Members of the Honourable the Legislative Council of long residence, high standing, and large possessions in the Province; various Clergymen of different denominations in York and its vicinity; and a few other individuals of high respectability.

The questions put by the Committee, related, among other things, to the birth-place and education of the ministers of the various denominations; the tendency of the instruction and influence of the Clergymen throughout the Province; the asserted increase of the Episcopal Church; and the tendency of the population toward it; the wishes of the inhabitants of Upper Canada in regard to the establishment of one or more Churches or Denominations in the Province, with peculiar rights, privileges, or endowments; the interference in politics by the Clergymen of the various denominations; the proportion of the members of the Episcopal Church to the whole population of the Province; the opinions of the witnesses as to which was the most numerous denomination of Christians in the Province; the asserted ignorance of the teachers of the various Christian Denominations, and the accuracy of Dr. Strachan's Ecclesiastical Chart of the Province.

The interrogatories elicited a mass of curious and interesting information as to the early Ecclesiastical history of Upper Canada—and in every important particular Dr. Strachan's statements were proved to be false by the most irrefragable testimony.

The assertion in Dr. Strachan's letter that "the people are coming forward in all directions offering to assist in building Churches, and soliciting, with the greatest anxiety, the establishment of a settled Minister;" and that "the tendency of the population is toward the Church of England, and nothing but the want of moderate support prevents her from spreading over the whole Province," were completely overthrown by the evidence. It was proved, that although the Episcopal Church had always enjoyed peculiar advantages in Canada; although it had been the religion of those high in office, and had been supported by their influence, and countenanced more than any other Church, by the favor of the Executive Government; that although its clergymen had possessed the exclusive right of marrying persons of all denominations; and that although the clergymen of the Episcopal Church had also been liberally supported, and their Churches partly or wholly erected and maintained from the funds of a Society in England; still the number of members of that Church had not increased in the same proportion as that of several other denominations, and the opinion of the witnesses was decidedly expressed that the tendency of the population *was not toward that Church*. On the other hand the highest testimony was offered to the disinterested and indefatigable exertions of the Methodist, Presbyterian, and other clergymen who had been calumniated by Dr. Strachan's unfounded insinuations.—Their influence and instruction, far from having (as was represented in the letter) a tendency hostile to the religious and political institutions of the Province, have been conducive in the highest degree to the reformation of their hearers from licentiousness, and the diffusion of correct morals, the foundation of all sound loyalty and social order. There was no reason to believe that, as religious bodies, they had failed to inculcate, by precept and example, as a Christian duty, an attachment to the Sovereign, and a cheerful and conscientious obedience to the Laws of the country.

Compared with the whole population, the members of the Church of England were found to constitute an extremely small proportion. On this subject the Committee used every exertion to inform themselves with accuracy. Besides obtaining answers from the witnesses to very minute questions, a Committee was appointed to hold its meetings at York, called the Central Committee of Upper Canada, and was directed to correspond with the other parts of the Province, to suggest the appointment of District Committees, and to request that they would carefully collect and transmit to the Central Committee at York, accurate information respecting the number of persons belonging to the religious denominations in their neighbourhood. In consequence of these instructions, communications were received from the various parts of the Province, containing correct and full information upon this subject, obtained from personal knowledge or inquiry, and authenticated by the signatures of respectable inhabitants. A Chart was framed from the materials thus obtained, and presented, in the opinion of the witnesses who spoke to it, a very complete and fair view of the number of ministers and of the different religious denominations in the Province. The information conveyed by this Chart so completely and satisfactorily contradicts and falsifies Dr. Strachan's statements, and bears so materially on the question whether a Charter granted on false representations and calumnious insinuations, should not be set aside and cancelled, that we think it right to subjoin abstracts of the Charts framed by Dr. Strachan and by the Committee of the House of Assembly respectively.

ABSTRACT OF DR. STRACHAN'S ECCLESIASTICAL CHART,

FOR THE YEAR 1827.

DENOMINATIONS.	*Clergymen.*	*Places of Worship.*	*Churches built or building.*
Episcopalians, -	30, and 1 under consideration.	58 places where regular or occasional service.	45, ten of them building.
Kirk of Scotland, -	2, two others vacant.	4	
Independents, -	6	6	
Methodists,*	From 20 to 30.		

* As the Methodists have no settled Clergymen, it has been found difficult to ascertain the number of itinerants employed; but it is presumed to be considerable—perhaps from twenty to thirty in the whole Province. The other denominations have very few teachers, and these seemingly very ignorant. One of the two remaining Clergymen in communion with the Church of Scotland has applied to be admitted into the Established Church.—*Dr. Strachan's Note.*

ABSTRACT OF ECCLESIASTICAL CHART PREPARED BY COMMITTEE OF THE HOUSE OF ASSEMBLY

REPORTED MARCH 5, 1828.

DENOMINATIONS.	Number of Preachers.	No. born in His Majesty's dominions.	No. born in Foreign countries.	No. birth unknown.	No. educated in His Majesty's dominions.	No. educated in Foreign countries.	No educated unknown.	No. naturalized.	No. not naturalized.	No. of Members or regular Communicants.	No of Churches or Chapels.	No of places of regular service.	No. of places of occasional service.	No. of regular hearers.
Methodists, - - - -	117	80	37	0	80	37	0	30	0	9000	66	680	130	30,911
Baptists, - - - -	45	26	4	15	34	1	10	4	0	1435	3	6	No return	5740.
Episcopalians, - - -	31	11	0	20	10	1	20	0	0	No return	38	31	30	No return
Presbyterians, - -	16	13	3	0	11	3	2	1	0	648	20	No return	No return	No return
Kirk of Scotland, -	6	4	0	2	4	0	0	0	0	No return	No return	No return	No return	No return
Mennonists and Tunkers, -	20	0	20	0	0	20	0	13	0	1134	8	No return	No return	2888
Wesleyan Methodists,	1	1	0	0	1	0	0	0	0	50	1	1	No return	100

NOTE.—The Roman Catholics are not given in the Chart, but it is well known that they were equal in number to any other denomination in the Province. There was also a considerable number of Lutherans and Quakers, of whom no notice seems to have been taken by the Committee.

No return seems to have been obtained from the Episcopalians of the number of regular hearers. It would be impossible to hazard a conjecture as to their amount. In a "Report of the Society for the Propagation of the Gospel in Foreign Parts, for the year 1826," it is stated that "the greatest number of Church of England communicants at any one time during that year was 267."

That the grand policy of the High Church party was to Episcopalize the Province by means of the University was now sufficiently obvious from the undisguised sentiments of their acknowledged leader, who quickly saw that such was the natural tendency and effect of putting into the exclusive hands of the Episcopal Church, the only seminary of learning in the country where a liberal education could be obtained. It was obvious, however, that there was in the minds of the people generally, a strong and settled aversion to any thing like an Established Church—the very attempt to invest the Episcopal Church with peculiar rights and privileges, from which the other sects were excluded, excited the greatest alarm and jealousy throughout the country. It was felt that it would be impolitic, as well as unjust, to exalt this Church, which embraced so small a minority of the inhabitants, by exclusive rights above all others of his Majesty's subjects, who were equally conscientious and deserving; and that the jealousy and alarm of the people were sufficiently well founded was but too obvious from the exclusive provisions of the Charter itself, a copy of which was sent down to the House of Assembly by the Lieutenant-Governor.

It appeared that the following were among its provisions: The Bishop of the Diocese was to be visitor, and as such might disapprove of the bye-laws made for the College by the Council, which thereby became void, unless His Majesty in Privy Council afterwards reversed this order; the Governor, Lieutenant Governor or person administering the Government, was to be Chancellor the President was to be a Clergyman in holy orders of the Church of England the Honourable and Venerable Doctor Strachan, Archdeacon of York was to be the first President—the Corporation was to consist of the Chancellor President and Scholars of King's College and was authorized to take and hold real Estate, not exceeding the yearly value of £15,000—the College Council was to consist of the Chancellor President, and seven other persons, who were to be Members of the Church of England, and to sign the thirty one Articles of that Church, previous to their admission into the Council the Council under certain restrictions, were to make bye laws for the College one of these restrictions was, that no religious test or qualification should be required of or appointed for any persons admitted or matriculated as Scholars in the College except that those admitted to the degree of Doctor in Divinity should take the same declarations and subscriptions, and take the same oaths as are required of persons admitted to any degree of Divinity in the University of Oxford. The Chancellor, President, and Professors of the College, and all persons admitted in the College to the degree of Master of Arts, or to any degree in Divinity Law or Medicine, who, from the time of such admission should pay the annual sum of 20s. sterling, towards the support of the College, were to be members of the Convocation

Such were the exclusive constitution and government imposed upon an Institution professedly designed for the promotion of science and learning among the people of Canada! That a Charter so violently repugnant to the feelings and convictions of the community should have been received with joy by the

High Church party, was of course to have been expected; but that the British Government should, in a matter of this kind, have shown any disposition to plant institutions in its transatlantic dependencies in accordance neither with the spirit of the age, nor with the principles which had for some time governed its domestic policy, can only be attributed to the fact—of which abundant proof has been given—that it was grossly deceived and imposed upon. And even were there not in existence ample documentary evidence to support the charge of deception, how otherwise is it possible to reconcile the policy of that Government, which had uprooted intolerance at home, and was about to wage open war with all monopolies and exclusions, civil, religious, and commercial; which had recently relieved the Dissenters of the odious Test and Corporation Acts; which was diffusing the blessings of a national education among the people of Ireland, without distinction of creed; and was about to send joy and gladness into the bosoms of the Roman Catholics, with the acceptable boon of Catholic Emancipation;—with the establishment, in a country buoyant with free principles, and in a vast community composed of Christians of different faiths, and worshipping under different forms, of a University unparalleled for its exclusive character and odious distinctions by any educational Seminary on the continent of Europe? Oxford and Cambridge indeed formed exceptions to the universal abandonment of tests—and even there religious restrictions were only defended and maintained on account of the intimate association and practical connection of those time hallowed Institutions with the National Church. Yet in Oxford and Cambridge themselves religious distinctions were comparatively new, and had been imposed at a period—by no means the brightest in their annals,—when genuine freedom was almost unknown, and when speaking of liberty, or expressing an opinion favouring of schism was sufficient to bring a man within the fangs of the Court of High Commission.

But when the Charter of King's College was obtained, such intolerant principles had been repudiated by every State in Europe, and exclusive distinctions on account of religion had been abandoned in all the great National Universities. In France, in Germany, and in Austria, persons of all religions were freely admitted into the Professors' chairs. In the University of Bologna, where the Papal authority was paramount, there was no exclusion on the ground of religion. In Pisa, no restrictions were recognized, and in point of fact, Mohammedans, Jews, Greeks and Turks were indiscriminately admitted. Indeed it frequently occurred that some of the Professors' Chairs were filled by English Protestants; and one circumstance sufficiently attests the total absence of that fanatical intolerance which seemed to have been put to flight in Europe, to find a refuge in the Academies of Canada. When a Mohammedan takes a degree at Pisa, the Chancellor, who is generally a Vicar-general or Archbishop, leaves the chair, and the Vice-Chancellor, whose religious scruples are not necessarily under the influence of Church preferment—presides at the ceremony. At Padua, the chairs have been frequently filled by foreigners,—by members of the Church of England—by Presbyterians, and by Calvinists. Thus, in the Roman, Venetian, and Austrian States, there was an absence of jealousy and religious exclusions at the Roman Catholic Universities. Nor was there any disposition to interfere with rational consideration and the rights of private judgment exhibited in the Universities in any part of Protestant Europe. In Bonn, Baden, Breslau, and Copenhagen, the Universities were open to all. In Leyden, the Professors might be Roman Catholics; and in Copenhagen, one of the chairs was, at the very time the Charter of King's College was obtained, filled by a Jew. In the Scottish Universities, the Test Statute originated in the zeal of the anti-patronage Presbyterians after the Revolution, and was enacted by the Scotch Parliament for the sole purpose of excluding Episcopalians from the Colleges at a time when Episcopalians and members of the Society of Friends were conceived to be alike unworthy of toleration. For many years, however, the Statute had been evaded, and its evasion winked at by the constituted authorities; and it is a somewhat remarkable circumstance that a pretty liberal infusion of Episcopalian Professors, Lecturers and Students into the Scotch Universities seems to have been attended with no very fatal result. Indeed, while every University in Europe was practically thrown open to persons of all religious persuasions, Oxford and Cambridge alone were close; and yet modelled upon these exclusive establishments, in which High Church principles have ever been dominant, and a violent and bigotted hostility to the claims of Dissenters, has ever been maintained,—the attempt was made to establish a University intended to be the hotbed and nursery of intolerant prejudices in a country whose very atmosphere was freedom—whose infancy and growth, unlike that of the European States, had not been stunted by oppression—but which had sprung at once into the full manhood of liberty and the possession of political rights; among a people who had ever evinced the most inveterate dislike of a dominant Church, and a severe jealousy of religious distinctions, and whose proximity to a land of free institutions, naturally made them chafe under any galling ascendancy which might expose them to the taunts of their ostentatious neighbours.

Were the character of Lord Bathurst less understood, or were the blind and bigotted zeal of the High Church party in England, as well as in Canada, less violent and headstrong, it would be difficult to conceive how the gross and calumnious misrepresentations of the Archdeacon of York, urged even though they were with the reckless temerity for which he is remarkable, should have escaped detection. Certain it is, that within the space of a few months, he had published statements, not only at utter variance with the truth, but most violently contradictory to each other. Thus, for instance, in his sermon on the death of the Bishop of Quebec, he complained that "sectaries of all denominations are increasing on every side;" while in his letter to Mr Horton, he affirmed, that "the Church of England is rapidly increasing," and that "the tendency of the population is towards that Church." In the sermon he admitted, that "even where churches were erected, the persons who gave regular attendance are so few as greatly to discourage the minister;" while in the letter he asserted that, "the people are *coming forward in all directions*, offering to assist in building churches, and soliciting with the greatest anxiety the establishment of a settled ministry." In the reckless statements which he poured forth in England, he unhesitatingly averred, that "the members of the Church of England were the most numerous of any religious denomination in the Province;" but when examined on oath by a Parliamentary Committee in reference to the truth of that statement, and confronted with persons intimately acquainted with the state of the country, he admitted that "*he never knew* the number of members belonging to the Church of England, *and that he could not tell how numerous they were*." Such are only a very few of the glaring inconsistencies and contradictions which graced the written and public assertions of this Episcopal dignitary; and yet so little in unison was the local Administration with the interests and feelings of the people, and so little were those interests and feelings known or understood by the British Government, that his calumnies and mis-statements were implicitly believed, and, without further inquiry having been instituted, were made the ground for the establishment of an Episcopal University for the exclusive benefit of an unacceptable minority of the community.

It would be a matter for much curious and not uninstructive speculation, to inquire by what irresistible arguments of a violent and bigotted partisan, a Colonial Minister could be induced to insult the convictions, and to trample on the liberties of a free people. It was impossible to mistake Dr. Strachan's *real* object, for that was openly avowed, and, in fact, it formed no part of his plan to conceal his ultimate design. His undisguised and avowed object was to Episcopalize the Province; and as the readiest means for attaining so desirable an end, he proposed that a fund, originally appropriated for the purposes of general education, should be applied to the endowment of "an essentially Missionary College, for the education of missionaries of the Church of England," who, he trusted, would be afterwards supported in such numbers by means of the Clergy Reserves, as would speedily reduce the Province to the ecclesiastical jurisdiction of that Church. And by what honeyed phrase and treacherous sentiment is this Colonial Minister induced to give his Majesty's sanction and approval of a nefarious and fraudulent scheme to rob the Canadian people of their birthright! Does the veracious Archdeacon inform the Colonial Secretary that there are three denominations in the Province more numerous than the Church of England? Does he tell him what, as a minister of Truth, he had but a few months before told the people of Canada from the pulpit, that "where churches are erected, the persons who give regular attendance are so few as greatly to discourage the minister;" and that "sectaries were increasing on every side?" Does he intimate that the means for the diffusion of general education are deplorably deficient, and that the endowment originally set apart for that purpose had never become available? Dr. Strachan has too ready a perception of the character with whom he had to negotiate, to hope for success by revealing startling facts, but he at once reverts to the old argument practically carried out by the Stuarts, and which still has its admirers among the High Churchmen of England. He informs the Secretary that the dissenting preachers are few and ignorant, and that their hearers are disaffected. The dissenters were ignorant—and yet he would exclude them from the best education which the country could afford! They were disaffected—and yet he would drive them for their education to foreign seminaries, where their principles might be endangered! Their ministers were placed in situations requiring the highest cultivation of the mind—and yet he would debar them from the means of qualifying themselves for the discharge of those duties which their situation imposed upon them! He would exclude them from knowledge—and yet punish them for ignorance! He would rail against their disaffection, and yet preclude them from the enjoyment of those civil privileges which were open to others by partiality and favouritism! Admirable High Church logic! Generous exuberance of High Church philanthropy! It is not impossible that the love of classical allusion which recently inspired the recondite Bishop of Toronto, in his luminous comparison of the principle of University Bill with the policy of "Pagan Rome, which, to please the nations she had conquered, condescended to associate their impure idolatries with her own;"[*] may also have felicitously suggested to the erudite Archdeacon of York, a parallel illustration of High Church doctrine in the Emperor Julian's celebrated decree, which prohibited all Christians from the study of heathen learning—for reasoned thus practical and precocious expounder of High Church policy—"they will wound us with our own weapons; they will overcome us with our own arts and sciences." Alas! how fatal to the peace and prosperity of Canada—how disastrous to the interests of true religion has it been, that this proselytising Prelate and the intolerant party with which he is associated, should never have been able to discover that if the principles of Episcopacy are so conducive to loyalty and good government, no more effectual method could be devised for bringing the dissenters within the pale, as well of the constitution as of the Church itself, than by admitting them to a full and unreserved participation with its members in the privileges and benefits to be derived from the general institutions of the country.

CHAPTER III

PROCEEDINGS IN PARLIAMENT

Dr. Strachan's calumnious misrepresentations drew down upon him the indignation of the whole Province. Numerous petitions from every part of the country, and from Christians of all denominations, were addressed to the Provincial and Imperial Parliaments, emphatically disavowing the disaffection which had been libellously imputed to them. Many who had been previously passive were now roused into active exertion. Public meetings were held at

---

[*] See Bishop Strachan's Memorial to the Legislature, against the University Bill, in 1843.

York and various other places, where expression was freely given to the indignation which was universally felt at the illiberal and exclusive provisions of the Charter, and the base insinuations by which the character of the Clergy had been stigmatized. This fresh attempt to trample on their civil rights was viewed by the people as part of that system of religious intolerance under which they had long groaned, and of which Dr. Strachan had been the chief promoter.

Year after year he had opposed a Bill to allow the Clergy of the various sects to solemnize marriages among their own flocks; and through his untiring instrumentality, a Bill authorizing the different denominations to hold lands which had been repeatedly passed in successive sessions by the Assembly was defeated in the Legislative Council. Irritated by direct injury, and indignant at the manner in which their representations had been received by the Local Administration, it was at length resolved to make a solemn and direct appeal for redress to the British Government, and, at the same time, to call the attention of the Imperial Parliament to the degrading position in which the people of Canada felt themselves placed by the local Government. Accordingly, at a Public Meeting, held at York, in the beginning of 1828, an Address to the House of Commons was agreed upon, and after receiving the signatures of 8000 Christians of all denominations, was transmitted to Mr. Hume for presentation. In laying this Address on the table of the House, Mr. Hume ably exposed Dr. Strachan's calumnious insinuations and mis-statements, and thus alluded to the Charter of King's College:—

"The Charter requires all the Professors and Officers of the University to subscribe the Thirty-nine Articles of the Church of England. This is the spirit in which the regulations are drawn up for a Public Seminary, at which the youth of Upper Canada are to be educated. They are taught by Professors who hold the tenets of a small minority only of those Provinces. I have reason to believe that His Majesty's Government have been much imposed upon by Dr. Strachan, whose statements are completely exposed by the petition. That reverend gentleman has aroused all classes by his aspersions upon the Clergy of all other denominations. He has thrown out the most vague accusations and suspicions respecting their fidelity and loyalty, which he has addressed especially to the Royal ear, with the view of poisoning it. Among other misrepresentations, Dr. Strachan stated that of all the Clergymen in Upper Canada, not belonging to the Church of England, there were only five who were not from the United States, where, he said, they acquired opinions at variance with their duty as subjects of His Majesty. He asserts also that they are under the influence of the American Conference, and that the Colonial Government has no control over them. This is a gross misrepresentation, yet by means of it Dr. Strachan has persuaded His Majesty to increase the exclusive privileges of the Church. What will the House say, when I tell them that the members of the Church of England form only a tenth part of the population, and when they hear how grossly Dr. Strachan has slandered the other Clergymen of Upper Canada. By the investigation which has been instituted in consequence of his misrepresentations, it appears that there are altogether three hundred and twenty-five Clergymen in Upper Canada, of whom there are only thirty-one Ministers of the Church of England. Yet on the recommendation of the reverend gentleman, His Majesty's Ministers were to establish three hundred Ministers of the Church of England at the public expense, and had endowed an University, for the education of all classes where the Professors are required to belong to the sect which comprises only a tenth part of the population. Of other Clergymen, there are one hundred and seventeen Methodists forty-five Baptists, and about forty or fifty of other denominations. So far from all of them having been educated in the United States, one hundred and thirty-three of the Methodists and Baptists, though only eleven of the Ministers of the Church of England were all born and educated in His Majesty's dominions. These were the slanderous representations made by Dr Strachan against so respectable a body as the Clergy of Upper Canada. The Clergy alone do not deem themselves aspersed by these statements their congregations also, and justly considered themselves calumniated. The petitioners object to any sect being particularly selected for preference and ascendancy, and they beseech the House that Christians of all denominations may enjoy the blessings of religious liberty and according to their talent worth and knowledge, be encouraged and protected. How utterly false the statements of Dr Strachan are respecting the character and conduct of the Methodists, may be inferred from the answer he has received as to his assertion that a large proportion of the members of the Assembly belong to the Church of England. The Legislative Assembly of Upper Canada have lately agreed to this effect—That the number of members of the Protestant Episcopal Church appears but very small in proportion to the number of other Christians, notwithstanding the pecuniary aid received by that body from the Society in England and its pretensions to the monopoly of the Clergy Reserves. This resolution was supported by twenty-seven members out of the thirty who compose the Assembly. It is a complete denial of the statements of Dr Strachan which are shown to be unfounded in every respect, and unworthy of belief. The reverend gentleman in his letter said that there was a tendency among the people of Upper Canada to follow the Church of England and on the faith of this representation he has obtained an annual stipend to build churches for the use of only one-tenth of the population. He is acting altogether in a manner to excite the strongest feelings of the Colony against him and the Establishment to which he belongs. The peace of Upper Canada has been endangered by the conduct of Archdeacon Strachan. His conduct has produced more discontent than any other subject whatever. This reverend gentleman fills his letter with attacks upon the other religious denominations, and what has been the consequence? There is not a county in the Province that did not declare the letter to be a slander; and the House of Assembly by a majority of 27 to 3 declared it to be gross and slanderous libel on the Province. And did the Government call this man to account? No—the individual was allowed to remain and no interference on the part of the Attorney-General was made although if a Dissenter, or any person belonging to any other sect had written such a letter as that of this Archdeacon, an *ex-officio* information would have been inevitable. This man ought not to be allowed to go on and create discontent throughout the Province."

A copy of the Charter having been transmitted by the Lieutenant-Governor to the Legislative Assembly its provisions created much dissatisfaction and were severely animadverted on. The House ordered a copy of the Report of their Committee with the evidence which they had procured, and the Charter framed in accordance therewith to be transmitted to the Imperial Parliament, and, at the same time, adopted the following Address to the King which was passed by a majority of twelve in a House composed of thirty members:—

"TO THE KING'S MOST EXCELLENT MAJESTY

"Most Gracious Sovereign

"We, your Majesty's dutiful and loyal subjects the Commons of Upper Canada, in Provincial Parliament assembled, humbly beg leave to represent to

your Majesty, that we have seen, with equal surprise and regret, a Letter and Ecclesiastical Chart, addressed by the Honourable and Venerable Doctor Strachan, Archdeacon of York, a member of your Majesty's Legislative and Executive Councils of this Province, to the Right Honourable R. J. Wilmot Horton, Under Secretary of State for the Colonies, as they are inaccurate in some important respects, and are calculated to lead your Majesty's Government into serious errors.

"We beg leave to inform your Majesty, that of your Majesty's subjects in this Province, only a small proportion are members of the Church of England; that there is not any peculiar tendency to that Church among the people, and that nothing could cause more alarm and grief in their minds than the apprehension that there was a design, on the part of your Majesty's Government, to establish, as a part of the State, one or more Church or denomination of Christians in this Province, with rights and endowments, not granted to your Majesty's subjects in general of other denominations, who are equally conscientious and deserving, and equally loyal and attached to your Majesty's Royal Person and Government. In following honestly the dictates of their conscience, as regards the great and important subject of religion, the latter have never been conscious that they have violated any law or obligation of a good subject, or done any thing to forfeit your Majesty's favour and protection, or to exclude themselves from a participation in the rights and privileges enjoyed by your Majesty's other subjects.

"We humbly beg leave to assure your Majesty, that the insinuations in the Letter against the Methodist Preachers in this Province, do much injustice to a body of pious and deserving men, who justly enjoy the confidence, and are the spiritual instructors of a large portion of your Majesty's subjects in this Province. We are convinced that the tendency of their influence and instruction is not hostile to our institutions, but on the contrary is eminently favourable to religion and morality—that their labours are calculated to make their people better men and better subjects, and have already produced in this Province the happiest effects.

"While we fully and gratefully appreciate your Majesty's gracious intention in granting a Royal Charter for the establishment of an University in this Province, we would beg most respectfully to represent, that as the great body of your Majesty's subjects in this Province are not members of the Church of England, they have seen, with grief, that the Charter contains provisions which are calculated to render the institution subservient to the particular interests of that Church, and to exclude from its offices and honours all who do not belong to it. In consequence of these provisions, its benefits will be confined to a favoured few, while others of your Majesty's subjects, far more numerous and equally loyal and deserving of your Majesty's paternal care and favour, will be shut out from a participation in them. Having a tendency to build up one particular Church to the prejudice of others, it will naturally be an object of jealousy and disgust. Its influence as a Seminary of learning, will, upon these accounts, be limited and partial. We therefore humbly beg that your Majesty will be pleased to listen to the wishes of your Majesty's people in this respect, and to cause the present Charter to be cancelled, and one granted free from the objections to which, emboldened by a conviction of your Majesty's paternal and gracious feelings to your loyal subjects in this Province, as well as by a sense of duty to the people, and a knowledge of their anxiety upon the subject, we have presumed to advert.

"JOHN WILSON, *Speaker*

"*Commons House of Assembly*
20th March, 1828."

The universal excitement throughout the Province, caused by the arbitrary attempt to establish a dominant Church supported by a privileged University, amongst a people in the last degree hostile to their pretensions, at length attracted the attention of the British Government, and, on the motion of Mr. Huskisson, then Colonial Secretary, in compliance with the wishes expressed in the Canadian petitions, a Committee of the House of Commons was appointed to investigate the whole subject of the Civil Government of the Province. In the spirited debate which took place on this motion, several distinguished members expressed their strong disapprobation of the principles of the Charter of King's College, and inveighed against the absurdity of forcing the exclusive restrictions of the English Universities upon a people who had invariably opposed the intrusions of law into the domain of conscience and religious opinion. Sir James Mackintosh the gifted philosopher, statesman, and historian, on that occasion, observed:

> "Endowments may be sacred, when they are guarded by centuries of existence, and by a long and well-known system of law; but I do not see any reason for making them now, in a new land, where the religion is different from that of the Church to which they are granted. Neither do I understand the regulations which have been made for the new College of Upper Canada. I see with astonishment, that in a country where the majority of the people do not belong to the Church of England, the Professors must all subscribe the Thirty-nine Articles, so that if Dr. Adam Smith were alive, he could not fill the Professor's Chair of Political Economy, and if Dr. Black were alive, he would be excluded from the Chair of Chemistry. In short, these regulations would exclude almost all the great teachers and illustrious men of the last age, were they in existence, and that too in a country where no such thing as a Test Act is known. I do not know what will be the consequence of such an arrangement. I cannot see by what process of the human mind it can happen that the inhabitants of Canada shall like a College which is foreign to the institutions of America, which is in favour of a Church which is not of their religion. It is a bad augury, I think, for the administration of the colony, and it confirms an opinion that I have long entertained, that it is not fitting for us here to make a charter for a colony which is some thousand miles distant from us. If a faction in the colony should have made the regulations of which I complain, we ought to interfere to prevent its operation."

On the same occasion Lord Stanley, the present Secretary for the colonies, thus expressed his views:

> —I should be ready to contend, if I were now sitting on the committee, that if any exclusive privileges be given to the Church of England, the measure will be repugnant to every principle of sound legislation." "I will not enter further into it at the present moment, except to express my hope that the House will carefully guard Canada against the evils which religious dissensions have already produced in this country and in Ireland, where we have examples to teach us what to shun. We have seen the evil consequences of this system at home. God forbid we should not profit by experience, and more especially in legislating for a people bordering on a country where religious intolerance and religious exclusions are unknown. It is important that his Majesty's Canadian subjects should not have occasion to look across the narrow boundary which separates them from the United States, and see any thing there to envy. We should bear in mind the principles of a liberal and comprehensive policy, and be checked by none of those considerations which, at home, perhaps, it is necessary to observe with respect to previous interests and existing prejudices. There we may begin *de novo*—there we may follow the most unfettered liberality—the soundest and most prudent policy we can adopt. We may thus preserve our friendly relations with Canada,

both as the Parent State while she remains a Colony, and when, in the course of ages, she becomes independent as an ally."

During the course of their investigations, the Charter of King's College was brought under the notice of the Committee, and, as a modification of its provisions had been warmly urged in all the petitions from the Upper Province, the Committee took great pains to ascertain accurately the Ecclesiastical Statistics of the country. Proceeding upon the voluminous evidence which they collected from persons of unquestionable character, they reported that the most important assertions of the petitions had been completely proved, and the result of their general labours was to suggest many liberal views of policy and important changes in the administration of affairs. On the subject of King's College they entered cordially into the views of the petitioners, and as the Report of this Committee continued for many years to form the text-book by which the Colonial Ministers professed to be guided in transmitting their instructions to the successive Governors, it may be proper to quote from its recommendations in reference to the University.

> "The attention of the Committee having been drawn to the establishment of the University of King's College at York, they thought it their duty to examine the Charter granted to that College. Of the great advantage which the establishment of a College for the purposes of general education in Upper Canada, is likely to confer upon the Province, the Committee entertain the strongest conviction; they lament only that the institution should be so constituted as materially to diminish the extent to which it might be useful.
>
> "It cannot, they think, be doubted, as the guidance and government of the College is to be vested in the hands of the Members of the Church of England, that in the election of Professors a preference would inevitably be shewn to persons of that persuasion; and in a country where only a small proportion of the inhabitants adhere to that Church, a suspicion and jealousy of religious interference would necessarily be created."

The Committee then go on to recommend the establishment of two Theological Chairs for the Students of the Churches of England and Scotland respectively; but with respect to the President, Professors, and all others connected with the College, no religious test whatever should be required.

> "That in the selection of Professors no rule should be followed, and no other object sought than the nomination of the most learned and discreet persons, and that (with the exception of the Theological Professors) they should only be required to sign a declaration, that as far as it was necessary for them to advert in their lectures to religious subjects, they should distinctly recognise the truth of the Christian Revelation, but would abstain altogether from inculcating particular doctrines.

It has often been urged by the High Church party, that the people of Canada being unable to appreciate the advantages of the religious and intellectual discipline pursued at Oxford and Cambridge, any attempt by them to interfere with the Constitution of King's College would be in the highest degree dangerous and unbecoming. Some guarantee for the safety and policy of the modifications demanded, may, however, be found in the names of those individuals by whom this Report was framed, and as the foundation of much of their subsequent fame was formed at the revered Educational Institutions of England, it is probable that the meritorious parts of their system were not overlooked. Among the Committee were Mr. Huskisson, Mr. Wynn, Sir James Mackintosh, Mr. Wilmot Horton, the Solicitor-General, Mr. Vesey Fitzgerald, Mr. (now Lord) Stanley, Mr. Stuart Wortley, Lord Francis Leveson Gower, Mr. Baring, Lord Viscount Sandon, and Mr. Labouchere.

When the Report was laid before the House of Commons, Sir George Murray—a consistent Conservative and a prominent friend of the Church—had succeeded to the Colonial Department—and as he had personally visited Canada, and was therefore in a position to form a fair judgment of the character of the institutions which might be best adapted to the circumstances of the country, his opinion may be entitled to some weight.

"It appears," he said, "that the Committee object to the Constitution of the College, and recommend that in the selection of Professors no rule shall be followed, and no other object sought than the nomination of the most learned and discreet persons. In this view I concur. I think it would not at all interfere with the religious opinions of the Students that Professors should be chosen without reference to the Christian denomination to which they belong."

The opinion of the Colonial Secretary thus frankly avowed was acted upon practically in his instructions to the Lieutenant Governor, under whose notice he brought "all the points recommended by the Committee." In his despatch to Sir P. Maitland, dated 29th Sept. 1828, he observed:—"It would be deservedly a subject of regret to his Majesty's Government if the University, recently established at York, should prove to have been founded upon principles which cannot be made to accord with the general feelings and opinions of those for whose advantage it was intended." At the same time he suggested that any alterations in the Charter should be made through the representatives of the people, and in the mean time he directed that its operation should be suspended till such modification of its provisions was made. Further evidence of Sir George Murray's views on the subject of the University is obtained from a speech which he subsequently, and after he had quitted office, delivered in the House of Commons, and in which the subject of King's College is thus incidentally mentioned:—

"I have been desirous to remove as much as possible every grievance which pressed upon any portion of His Majesty's subjects, on account of their differing upon points of religious belief from the doctrines laid down by the Church of England. I wish at all times to act upon the principles opposed to those of exclusion on account of religious differences of opinion. I could quote an instance, indeed, in which, in my public capacity, I carried that principle into effect. A short time before I came into office as Secretary for the Colonies, a Charter had been granted for founding a University at York, in Upper Canada, which was to be established upon the exclusive principle of giving admission to a share in the government of it only to members of the Established Church. I objected to this. *The principle of exclusion once recognised in Canada under a Charter of the Crown, I thought we should be sowing in the new world the seeds of those very evils which had given rise to so many dissensions, and occasioned so many conflicts in the old.* I therefore urged that, instead of establishing this College at York on exclusive principles, a College should be founded at Montreal, in which no distinction should be made on account of religious differences of opinion. I was led to fix upon Montreal, partly on account of its central situation, and partly because it so happened that a sum of money had been left by a benevolent individual, for the purpose of forming a Protestant Seminary for education at that place. This sum I wished to unite with the other for the purpose of establishing a College at Montreal, for all classes of his Majesty's Canadian subjects, without any exclusion on account of religious opinions."

When Sir John Colborne assumed the administration, towards the close of the year 1828, the excitement on the subject of the University had gathered strength throughout the Province, and his Excellency soon perceived that it would be absolutely necessary for the peace of the country to effect some settlement of this irritating matter. The College Council had, in the mean time, been formed under the Charter, and as the materials of which it was composed, closely reflected the character of those who then monopolized the patronage of the Crown, the most determined resistance was made to the proposed modifications. In carrying out the instructions of the Colonial Secretary, to submit the Charter to the Legislature, it appeared to the Lieutenant-Governor to be advisable in the first instance to secure the co-operation of the College Council. The influence of that body in the Legislative and Executive Councils being paramount, it was easy to foresee that any measure of a liberal tendency which might be passed by the Assembly, would be defeated in the Legislative Council,—a majority of the members having seats at the Council Board of the University. Accordingly on the 13th Dec., 1828, a few days after he had entered upon the administration, his Excellency convened the College Council, and anxiously urged upon them the necessity of surrendering the Charter, which had been obtained upon misrepresentation and concealment of facts. He referred them to the Report of the Select Committee of the House of Commons, which characterized the Charter as a grievance—alluded to the positive instructions which he had received from his Majesty's Ministers to submit the Charter to the Legislature—invited the co-operation of the Council, in effecting the amendments, and he emphatically declared, that in the event of their assistance being withheld, one stone should not be put upon another, and that he would concur in no measure to further the institution, while the obnoxious provisions of the Charter remained unaltered. In his speech, on opening the Parliament, 9th January, 1829, alluding to his determination on the subject of the University, he said, "Measures will be adopted I hope, to introduce a system in that Seminary, that will open to the youth of the Province the means of receiving a liberal and extensive course of instruction."

In consequence, however, of the persevering resistance of the College Council, and their powerful influence in the administration, no measure for the amendment of the Charter was submitted to the Legislature, and the House of Assembly, thus disappointed in their expectations, after some delay, addressed his Excellency on the subject, and with the view of possessing themselves of the necessary information, requested to be furnished with a statement of the funds which had been obtained and set apart for the erection of the University, and of the appropriations made from and out of these funds. On 20th March, 1829, a set of resolutions, embodying the sentiments of the members, on the subject of the University, were severally put and unanimously carried.

The importance of these resolutions, as indicating the wishes of the country at that time, is increased in consequence of the principles contained in them having been, at a later period, adopted as the foundation of a legislative measure which passed through the Assembly, but was defeated in the Legislative Council.

"*Resolved*—That the thanks of this House are due to his Majesty for his gracious intentions in erecting and endowing a University in this Province.

"*Resolved*—That much erroneous information has been communicated to his Majesty's Government upon that subject, under which misinformation this House apprehends the Charter was granted, with provisions not suited to the conditions and wishes of the people for whose benefit it was intended.

"*Resolved*—That the provisions requiring the President of the said University to be a Clergyman in Holy Orders of the United Church of England and Ireland, and to hold his office during pleasure, is highly inexpedient, because in the only seminary of general learning in the country all collegiate offices and literary rewards should be conscientiously awarded according to moral and intellectual merit, should be enjoyed under an independent tenure, and should be held forth as incentives to all candidates for academic honours, without making such honours subservient to favouritism.

"*Resolved*—That it is for the above reasons highly inexpedient that the Archdeacon of York, for the time being, by virtue of his office, should be at all times President of the said University.

"*Resolved*—That the provision requiring the President and the seven Professors constituting the College Council to be members of the said Established United Church, and to subscribe the Thirty-nine Articles, is highly inexpedient.

"*Resolved*—That the Chancellor, President and members of the Council, the Professors and other teachers of the said University, ought, after the organization of the same, to be elected by a Senate composed of the members of the Council and others who have taken a degree in the said University above Bachelor of Arts, having their names on the Books of the College, such election to be made from the graduates from the said University, or from the graduates from the Universities of England, Ireland, or Scotland, of sufficient standing in their respective Universities to be candidates for such office or trust.

"*Resolved*—That it is inexpedient that the degree of Doctor of Divinity should be confined to those who subscribe to the Thirty-nine Articles of the said Established and United Church, but that it should be obtainable by all graduates who, professing the Christian faith, shall, after due and impartial public examinations in the public Schools of the said University, evince the classical, biblical, or other learning and qualifications, proper to be acquired by candidates for such an honour.

"*Resolved*—That it would be expedient if the teaching of Doctrinal Divinity were confined to the examination of the Students, by questions put by the Professor out of the Bible, in the same manner as the classics in the University of Cambridge are examined upon, and taught any science out of standard authors, leaving discretionary latitude to the Professors only in lecturing on biblical criticism, theology, evidences of Christianity, sacred history, and whatever collateral branches of learning may be appointed for candidates for Holy Orders, by which means would be obviated the principal difficulties apprehended from the same Professors being the instructors of Students professing the faith of different denominations of Christians.

"*Resolved*—That whatever in the said Charter in any degree gives a sectarian character to the said University, ought to be wholly done away.

"*Resolved*—That with the exception of the exclusive and sectarian principles and unequal distribution of wealth prevailing in the Universities of Oxford and Cambridge, it is highly expedient to follow their institutions and modes of instruction, making from time to time such modifications as experience may point out.

"*Resolved*—That without the patriotic, disinterested, and impartial conduct of those to whose wisdom and management the infancy of this Institution shall be confided; without a strict observance of economy in the whole system; without inducing from Great Britain and Ireland Professors of acknowledged learning and worth, liberally paid, but not with that extravagance which would merge the rewards of honour in the sordid expectation of pecuniary gain, and without making grandeur of schemes and appearance yield to immediate practical and unostentatious utility, the University cannot gain public confidence, or realize the gracious intentions of His Majesty."

These Resolutions were presented to his Excellency with the following Address:

"We, His Majesty's dutiful and loyal subjects, the Commons of Upper Canada, in Provincial Parliament assembled, humbly request your Excellency's favourable attention to the Resolutions accompanying this Address, and we further humbly thank your Excellency for the interest your Excellency has manifested for the promotion of education in this Province in a way suited to the wishes, feelings, and genius of the people."

The Lieutenant-Governor thanked the Commons for this Address, and assured them that he would not fail to give immediate attention to the Resolutions which accompanied it. The Session having forthwith terminated, no farther proceedings took place in reference to the University.

Before the opening of the next Session, Sir John Colborne applied himself with energy, in obedience to the instructions which he had received from His Majesty's Ministers, to effect a modification of the Charter. Anxious still that this should be done with the friendly co-operation of the College Council, and aware that without that co-operation any attempt to liberalize the Institution would be defeated in the Legislative Council, he renewed his urgent entreaties to have the Charter surrendered. His exertions, however, having proved unavailing, he was at length compelled to suspend the operations of the Charter, and to direct his energies to such ameliorations in the defective system of Education which then prevailed in the Province as would best remedy the evils which the obstinate conduct of the College Council might inflict on the country. In opening the Parliamentary Session, on 8th January, 1830, he thus cursorily alluded to the opposition which he had received from that body, and to the defective state of Education throughout the Province:

"The delay that may take place in revising the Charter of the University, or in *framing one suitable to the Province, and to the intention of the endowment*, must, in fact, under present circumstances, tend to the advancement of the Institution, as its use depends on the actual state of Education in the Province."

The Address of the House of Assembly in answer to his Excellency's Speech, thus met his allusions to Education:

"We are glad to find that your Excellency still anticipates a modification of the Charter of King's College, which, as at present constituted, is undeserving of public patronage, and likely to foment sectarian jealousies, and prove equally injurious to the purity of our religion and to the liberties of our people.

"While we are willing to support a College for instruction in the professions, and in the higher branches of science, we feel it to be a primary and more imperative duty to provide for the general extension of the means of Education among the people in every township. But we concur with the opinion expressed by your Excellency, that dispersed as the population is over an extensive territory, a general efficiency in the Common Schools cannot be expected, particularly while the public salaries of the Masters, and the small remuneration which their patrons, in the present condition of the country, can afford to give, will not admit of their devoting their whole time to their useful calling.

"From these considerations we feel the increased necessity and duty of securing, besides the sum already provided by law, a more equal and just distribution of the proceeds arising from the lands reserved for Education, from which resources the people have hitherto derived no advantage."

The House of Assembly at the same time passed the following Resolutions, declaratory of its determination to resist the exclusive policy which had evinced itself on the part of the High Church party composing the Administration:

"*Resolved*—That the Christians of various denominations in this Province have been deeply wounded in their feelings by the false and calumniating misrepresentations made for the purpose of establishing an exclusive and proselyting system, which it has hitherto been attempted to strengthen and extend by rendering subservient to it the patronage of the Executive Government and the unjust appropriation of the School Reserves for the support of a University, against the sectarian character of which this House can never cease solemnly to protest, as they already have done.

"*Resolved*—That there justly is, in the minds of the people of this Province, a strong and settled aversion to a dominant Church, connected with Government, and upheld by that Government in a claim to a monopoly of the Clergy Reserves, and to the enjoyment of peculiar privileges, to the exclusion and prejudice of various denominations in this Province."

Notwithstanding the symptoms of weakness and vacillancy which frequently exhibited themselves in Sir John Colborne's administration of the Government, it is but just to admit that his personal views and designs, when unobstructed by the influence of the baneful oligarchy which at that time incubated on the Province, evinced a sincere desire for the prosperity of the country. To the cause of education in particular he devoted much of his attention and energy; and it is probable that he might have succeeded in effecting a considerable amelioration of the defective system which then prevailed, had his plans not been frustrated and overruled by the illiberal and fatal opposition of Dr Strachan and his intolerant party. The provisions which had been from time to time made by the Legislature for the diffusion of instruction among the people were rendered completely nugatory by "the schemes" which the Archdeacon of York, in a moment of incautious vanity, divulged to the Society for the Propagation of the Gospel. He had truly been "*instrumental in establishing a scheme in Canada, by which the education of the whole population was virtually under the direction of the Church*,"—and from which, he might have added, the people generally derived scarcely a larger amount of benefit than the pleasure gratification of seeing the pecuniary necessities of the Venerable President of the Educational Board relieved by an annual stipend of £300 from the Parliamentary grant. It formed no part of "the scheme" of this disinterested patron of learning, to permit any of the classes who contributed so largely towards the maintenance of the Schools to participate in their superintendence. The exclusive control was monopolised by the members of the Episcopal Church, and the appointment of Trustees from one communion alone had occasioned so much jealousy and bitterness, that the Schools had sunk into a deplorable state of inefficiency which reflected deep disgrace upon the Province.

Sir John Colborne was fully alive to the defects and corruptions under which the system laboured, and to the absurdity of establishing a University for the higher branches of learning, while the children of the yeomanry were exposed to the evils and dangers of almost unmitigated ignorance. It was indeed abundantly apparent that the country, as it then existed, would derive a greater amount of benefit from the general diffusion of the means of instruction, and that the objects of the Royal Grant would be more effectually promoted if a liberal education could be placed within the reach of the people, than if the endowment were applied to the establishment of a great metropolitan seat of learning, for which the youth of the Province were not fitted by a proper preparatory course. The first efforts of the Lieutenant-Governor were therefore directed to an extension of the Common and District Schools, and to a more liberal system of management and tuition. But these benevolent designs did not meet the approval of Dr Strachan and his party, and his Excellency was compelled to succumb to their superior influence. Unwilling, however, to relinquish his plans altogether, he took an intermediate course, and submitted to the College Council a proposal for the establishment of an Academy of a superior class at York, which might at least prepare the children of the higher ranks for the advantages of the University. This proposal having met with no opposition, his Excellency, by Message submitted his plan to the House of Assembly.

> "The Lieutenant-Governor has no doubt that it would be deservedly a subject of regret to his Majesty's Government if the principles on which the University is founded cannot be made to accord with the *general feeling and opinion of those for whose advantage it was intended*, and he believes that the first change in the Charter which should be recommended, and which would conduce more than any other to its becoming eminently useful to the Province, is the connecting the Royal Grammar School with King's College, in such a manner that its Exhibitions, Scholarships, and chief support may depend on the funds of that endowment.
>
> "The advantages that will result from an Institution conducted by nine or ten able masters, under whose tuition the youth of the Province could be prepared for any profession are indisputable, and if such a School were permanently established, and the *Charter so modified that any Professor shall be eligible for*

the Council and that the Students in the College shall have liberty and faculty of taking degrees in the manner that shall hereafter be directed by the statutes and ordinances framed by his Majesty's Government, the University must flourish, and prove highly beneficial to the Colony."

This proposal having been acceded to, the Royal Grammar School was superseded and Upper Canada College was opened on 4th January 1830 for the purposes of tuition. An endowment of 66,000 acres was afterwards procured for its support from the residue of the general School Lands, together with the site of the College and some valuable town lots, and by means of the aggregate funds that were expected to accrue from these sources, and from the fees payable by the Students, it was fully expected that under a proper system of management, a sufficient income would be derived for the proper maintenance of the Establishment. How far these expectations have been realized will form a matter for future enquiry.

* * *

CHAPTER IV.

THE AMENDED CHARTER.

The reform of the University now became intimately connected with another question which had already created much excitement and irritating discussion, and which was destined to have a material influence on the future peace and welfare of the Province. By the Imperial Act 31. Geo. III. ch. 31, one seventh of the granted lands in Upper Canada had been set apart for the support of a Protestant Clergy. This ecclesiastical provision had, under the phrase of "a Protestant Clergy," been heretofore limited by the Government to the United Church of England and Ireland. A claim was at length put in by certain members of the Church of Scotland to a share of the provision, and this claim was afterwards assumed and insisted on by the other Protestant denominations in the Province. The appropriation by the Government exclusively to one Church or the extension of it to others thus became a question of almost absorbing public interest. The House of Assembly repeatedly offered strong remonstrances against any favour or assistance on the part of the Government to one or more religious denominations which was not equally bestowed upon all, and the principles of religious supremacy and exclusion in favour of the Church of England contained in the Charter of the University, appeared to the members of that body as a part of a system conducive to the extension and perpetuation of an injurious policy, inconsistent with that perfect equality of rights and privileges to which it was thought Christians of all denominations in the Province were entitled. In conformity with these views the Assembly on 12th March 1831, caused the following address to be prepared and transmitted:

"TO THE KING'S MOST EXCELLENT MAJESTY.

"Most Gracious Sovereign,—

"We, your Majesty's dutiful and loyal subjects, the Commons of Upper

Canada, in Provincial Parliament assembled, beg leave most humbly to submit to your Majesty, that by an Act of the Parliament of Great Britain, 31st Geo. III., one-seventh of the lands of this Province was set apart for the support of a Protestant Clergy.

"That under that act appropriations have from time to time been made, and which appropriations are, in this Province, known by the name of the 'Clergy Reserves;'—that these appropriations having been generally made in lots of two hundred acres throughout the several Townships of this Province, the value of the same has been much enhanced by the settlement of the country, and principally from the improvement of the lands in the neighbourhood of such appropriations, by the labour of inhabitants composed of various denominations of Christians;—that these Reserves being so interspersed with the lands of actual settlers, have materially retarded the improvement of the country;—that by an act passed in the reign of his late most gracious Majesty, provision was made for the sale of a portion of these Reserves;—that it is unjust as well as impolitic, to appropriate the said lands to the support of any one Church exclusively, and it is extremely difficult, if not altogether impracticable, to apportion or divide the same among the Clergy of all denominations of Protestants;—that a large majority of the inhabitants of this Province are sincerely attached to your Majesty's person and government, but are averse to the establishment of any exclusive or dominant Church;—that this House feels confident that to promote the prosperity of this portion of your Majesty's dominions, and to satisfy the earnest desire of the people of this Province, your Majesty will be graciously pleased to give the most favourable consideration to the wishes of your faithful subjects;—that to terminate the jealousy and dissension which have hitherto existed on the subject of the said Reserves—to remove a barrier to the settlement of the country, and to provide a fund available for the promotion of Education, it is extremely desirable that the said lands, so reserved, be sold, and the proceeds arising from the sale of the same, placed at the disposal of the Provincial Legislature, to be applied exclusively for that purpose. We therefore humbly pray that your Majesty will be graciously pleased to recommend to your Majesty's Parliament of Great Britain and Ireland to pass an act to authorise a sale of the Clergy Reserves remaining unsold, and to enable the Legislature of this Province to appropriate the proceeds thereof in such manner as may be considered most expedient for the advancement of Education.

"We also most humbly beg leave to submit to your Majesty, that while we fully appreciate the gracious intention of our late revered Sovereign to promote education, by granting a Royal Charter for the establishment of an University in this Province, we feel it incumbent on us to represent, that as the great majority of your Majesty's subjects in this Province are not members of the Church of England, it is matter of regret that the Charter contains provisions which are calculated to exclude from its principal offices and honours, all who do not belong to that Church.

"In consequence of these provisions, the benefits of the Institution will be confined to a few individuals of one religious denomination, while others of your Majesty's subjects, equally loyal and deserving, will be excluded from participating in advantages which should be open to all. Its influence as a Seminary of learning on this account must be limited, and it will be looked upon with jealousy by a large majority of the inhabitants of this Province. We therefore humbly pray that your Majesty will be graciously pleased to cause the Charter of King's College to be cancelled, and to grant another, free from the objections to which our duty to the people of this Province has induced us to advert."

This address was transmitted to the King by Sir John Colborne, who, on

receiving it thus announced to the House his instructions on the subject of the University

"Gentlemen,—I will forward this Address to the King immediately. It may, however, be satisfactory to you to receive the information that I have reason to believe that either the exclusive provisions considered exceptionable in the Charter of King's College have been cancelled, or that such arrangements have been decided on by his Majesty's Government, as will render further application on this subject unnecessary.

"A Charter, solemnly given, cannot be revoked without much delay and circumspection; but his Majesty's Ministers have long directed their attention to the great advantages which the *Province* will derive from an University being established on principles that may be approved of by every good and enlightened person."

Meanwhile the excitement on the subject of the University continued unabated throughout the country. At a public meeting held at York, on 10th December, 1830, a Petition to the British House of Commons was adopted, and before being transmitted received upwards of 10,000 signatures. This Petition embraced the subject of the Clergy Reserves, and prayed a modification of "the Charter of King's College established at York, in Upper Canada, so as to exclude all sectarian tests and preferences, and to appropriate the proceeds of the sale of lands heretofore set apart for the support of a Protestant Clergy, to the purposes of general education and various internal improvements."

An Agent was appointed to carry this Petition to London, and on the occasion of its being presented to the House of Commons, Sir George Murray observed,—

"I trust that the sentiments which I have always entertained upon the subjects to which this Petition relates are sufficiently well known to the House. *I conceive that nothing can be more unfortunate for any State than that political distinctions should be founded on differences in matters of religion. I believe that those distinctions can never arise except when religion has been made subservient to the selfish interests and to the unholy passions of men.* I agree entirely in the objection which has been taken to that part of the Charter of King's College which introduces a distinction on the score of religion. While I was in office I suspended the operations of the Charter, *having it in contemplation to abolish entirely that distinction, and had I remained in office, I should certainly have done so.*"

Copies of the Canadian petition to the House of Commons, and of the proceedings and resolutions of the House of Assembly, were at the same time laid before the Colonial Secretary.

These proceedings had the effect of turning the immediate attention of the British Government to the danger of the exclusive policy which had been pursued under the erroneous statements and evil counsel of the Archdeacon of York. His Majesty's Ministers at once saw the necessity of concession, and endeavoured to retrace the false step that had been made, by giving their formal sanction to the modification which had been proposed by the Assembly. With this view his Excellency Sir John Colborne was instructed to bring the matter before the College Council, and to insist upon a surrender of the Charter, in order that it

might be modified by the Provincial Parliament, in such a manner as would adapt it to the situation of the country and the wishes of the people.

Acting upon these instructions, the Lieutenant-Governor convened the College Council on 2nd November, 1831, and laid before them a Despatch from Lord Goderich, then Colonial Secretary—in which his Lordship referred at considerable length to the original purposes of the grant, and the design of the British Government in establishing a University. He observed that "it is greatly to be regretted *that any thing in the constitution of the establishment should have tended to counteract, if not defeat this laudable design, and practically deprive the Province of the advantages anticipated.*" "*It cannot be denied,*" he continued, "*that the exclusive and restrictive character given to King's College University has had this effect.*" His Lordship then alluded to the suggestions of the Committee of the British House of Commons in 1828, which had been transmitted by his predecessor in the Colonial Office, with the view of their forming the basis on which the constitution of the University should be established, and he earnestly recommended that the course then advised by his predecessor should now be pursued. He also signified *his approval of the Resolutions adopted by the House of Assembly in 1829* quoted in the preceding chapter, and insisted that the College Council should immediately surrender the Charter that it might undergo such modifications as the Parliament of Upper Canada should determine, but in requiring such surrender he pledged himself to the Council that the endowment should be applied to no other purpose than that of education.

The advice thus frankly offered and the request contained in the despatch of of the Colonial Secretary were obstinately declined by the College Council who, in a lengthy report framed in answer to the despatch maintained their position with a reckless temerity which at the present day might excite surprise were the fact not sufficiently explained by the overwhelming influence which its members possessed in the Executive and Legislative Councils of Upper Canada. Hitherto the obstacles interposed by the College Council—who had been long the prominent leaders of the High Church party—to the diffusion of general instruction had proved most disastrous to the country. It was quite obvious to every one that the concentration of means accruing from a productive endowment on an exclusive seminary beneficial only to a few, so long as the elementary Schools owing to the unproductiveness of their endowment from causes beyond control were in a state of comparative destitution, was a proceeding not only inverting the order of the entire scheme, but eminently calculated to create a dissatisfied and invidious feeling on the part of a large portion of the community. So long indeed as means were wanting to confer elementary instruction commensurate with the increasing demands of the country the prior formation of a metropolitan seat of learning irrespective of its exclusive character and constitution, was viewed with jealousy and disfavour even by those who, under more propitious circumstances, would have hailed its establishment and would have been well satisfied to see it in active operation. The functions of the General Board of Education—which for nearly eight years had been a libel on the name that it bore—ceased in 1832 and with its demise the salary of the Venerable President, which during the same period had yielded him no less a sum than £2,250, also ceased to be exigible. The Archdeacon of York, however, whose genius was ever fertile in expedients, and whose zeal in the cause of education has always borne an affectionate approximation to the pecuniary advantages which he has derived as a "Patron of Learning," naturally directed his restless energies to the University, as a compensating source of emolument. Holding the office of President, with the exclusive honour of being the only salaried member of the Council, he regarded with dismay every modification of the Charter which could have the most remote tendency to endanger his sinecure, an effect by no means unlikely to have followed from the admission of the Dissenters to a share in the government, and a conscientious administration of the affairs of the Institution.

So long as this serious obstacle remained, all conciliatory attempts to obtain the consent of the College Council to the modifications required by the people of Canada signally failed, and the Colonial Secretary at length became convinced that no concession would be made to which the Council were not driven by the last necessity. The Archdeacon of York had previously distinguished himself as an energetic and powerful opponent to the formation of the Canada Company, and through his zealous interference its operations had been materially retarded. It was at length, however, agreed, on the understanding that his personal opposition to the Company should cease, that an annuity of £1,000 for 16 years should be given from the funds of the Company in aid of the University Buildings. This grant had been paid for four and a half years, but was suspended by Lord Goderich—who penetrated the design of the College Council to maintain their position so long as they were provided with available funds,—until the Legislature should pass a Bill amending the Charter. In the despatch of 8th July, 1832, by which he suspended the grant from the Canada Company, he placed the remodelling of the University entirely in the hands of the Provincial Parliament, whose claim he distinctly recognised "to exercise the management of the territorial grants assigned for the purposes of education, it being assumed from their having in questions of this nature the deepest share of interest, that they are therefore the most competent to judge of what is best adapted to the progressive wants and wishes of the community which they represent." His Lordship further observed, that "*when a change of this nature is desired by the inhabitants themselves, and is called for by an address from their representatives, I am of opinion that if there were nothing else to be considered than the accomplishment of the immediate object, it would be desirable to comply with wishes which have been so expressed.*" Beyond enjoining that the funds of the endowment thus placed at the control of the Provincial Legislature should not be diverted from their governing object—the promotion of education—Lord Goderich did not think it expedient to prescribe any set regulations for the practical application of those funds, his Lordship observing "*that it would be worse than useless to destroy the grace of the concession which had been made by attempting to clog it with objectionable conditions.*"

The Despatch from which the above quotations have been made, was marked "Confidential;" but if any doubts remained as to the intention of the British Government on the subject of the University, they were satisfactorily removed by Lord Goderich's celebrated Despatch to Sir John Colborne, of 8th November, 1832, which was laid before the Provincial Parliament. In reference to a proposal which had been made to place King's College on the list of constituent bodies enjoying the elective franchise, his Lordship thus expressed himself: "You will observe that I do not here refer to an University constituted in the manner proposed in the original Charter of Incorporation." Every man in Canada, however, knows, *that so far from any anxiety having been felt by the King's Government to maintain that Charter against the wishes of the great majority of the people, every possible measure has been taken to refer to their Representatives the decision of the question, in what form and upon what principles the College should be founded.*" And in the same Despatch, after repudiating a policy which would consign the children of the yeomanry to ignorance, lest knowledge should render them independent in action and in thought, his Lordship proceeds: "On the contrary, there is no one object connected with every part of his Majesty's dominions which his Majesty has more at heart than the diffusion of sound knowledge in the legitimate and most enlarged sense of that term. This is not merely the first and highest interest of society, but is essential to the right use and peaceable enjoyment of every other civil and social privilege." And he thus points to the constitutional remedy for the abuses of King's College, which his Majesty's Ministers were now most anxious to see relieved of every sectarian restriction:—

> "*The Legislature of Upper Canada have already been invited to consider in what manner the University can be best constituted for the general advantage of society*, and His Majesty has studiously abstained from the exercise of his undoubted prerogative of founding and endowing Literary or Religious Corporations, until he should obtain the advice of the Representatives of the people for his guidance in that respect." "All minor distinctions should be merged in a general union for this important end (the diffusion of Education), and at the head of that union the local Government should be found encouraging and guiding, and to the utmost of its power assisting all the efforts which may be made to create or to foster a taste for intellectual enjoyments and pursuits." "Confident in your own concurrence and in that of the members of the Legislature in those views, *I cheerfully remit to you and to them the office of originating the necessary plans for reducing the general principle into a definite shape*, requiring of yourself in the first instance only, that you should quicken the attention of the Legislative Council and Assembly to this subject, should you have reason to apprehend that it is in danger of being overlooked or forgotten."

In opening the Parliament on the 19th November, 1833, His Excellency Sir John Colborne thus communicated his instructions to the Legislature:—

> "The important subject of public Education, which has in several Sessions occupied much of your attention, demands your early notice and consideration, particularly the questions which relate to the revision of the system of Township Schools—the application of the proceeds of sales of School Lands for the support of superior District Schools, and the requisite extension of the Royal Charter

under which the University is at present established. With respect to these points, and the immediate course which you may suggest to ensure the opening of the University, sanctioned by a Charter framed on more comprehensive principles than that which has been granted, there can be no doubt, that as the Province is fully prepared to reap the benefits which were intended to be conferred on it by the establishment of King's College,—*His Majesty will readily give effect to any measures proposed by you regarding its future government*, and the appropriation of School Lands that may tend to promote the purposes of the Institution, or add to the advantages which the Colony, under the blessing of Providence, enjoys, by facilitating the diffusion of Education among all classes."

To this address, the House of Assembly answered that they would "use diligence in considering and maturing the requisite extension of the Royal Charter under which the University is at present established: and His Excellency's assurance, that His Majesty will readily give effect to any measures proposed by us regarding its future government, and the appropriation of the School Lands to meet the purposes of Education, is an additional proof of His Majesty's paternal care for the advancement of the most important interests of his subjects."

No Legislative measure affecting the constitution of the University was introduced into the Assembly during this Session, but at length in the Session of 1834-35, a Bill to amend the original Charter was framed upon the principles contained in the Resolutions of the House in 1825, which had received the approval of the Colonial Secretary.

This Bill proceeded on the preamble that,—"Whereas his present Majesty has been graciously pleased to satisfy through His Majesty's principal Secretary of State for the Colonies, Earl Ripon, by his dispatch of the 8th November 1832, communicated to the Legislature by His Excellency by message, that so far from any anxiety having been felt by His Majesty's Government to maintain the said Charter against the wishes of a great majority of the people, every possible measure has been taken to refer to their Representatives the decision of the question in what form and upon what principles the said College should be founded." The Bill then declared that from thenceforth it would not be necessary for the President and Professors to be members of the United Church of England and Ireland, or that they should subscribe the Thirty-nine Articles:—That the Council should consist of twelve persons, one half of whom should be nominated by the Legislative Council and the other half by the Legislative Assembly, and that they should hold their office for four years:—That the College Council should elect the Professors, Tutors, and Lecturers:—That the College Council should make rules and ordinances for the government of the University, subject to the approbation of the Chancellor:—That no rules or ordinances should be passed by the Council imposing on the Professors, Tutors, Lecturers, Scholars, Graduates, under-Graduates, Students, Servants, or others any religious form or mode of worship, or in any way whatever restraining them from attending on the Sabbath whatever place of religious worship they chose:—That no religious test or qualification whatever should be required of the Chancellor, President, Professors, Tutors, Lecturers, Scholars, or other persons being candidates for any situation or honour in the College:—That there should not at any time be allowed to be within the College any public Professor, Lecturer, or Teacher of Doctrinal Divinity, according to the Articles of Faith professed by the United Church of England and Ireland, or according to the Creed or Faith of any other Christian or Religious Church whatever:—And that the College Council should not apply any of the funds belonging to the University to the support of any public Professor, Lecturer, or Teacher of such Divinity.

The Bill was carried through the House of Assembly by a majority of 32 to 5. Among the majority were nine members whose views on other subjects were directly opposed to those of the liberal party, but so strong was the feeling throughout the country in favour of the measure, and so convinced were the members themselves of the flagrant injustice of planting exclusive educational Institutions among so varied a population as Canada contained, that the various resolutions submitted to the House, in successive Sessions and Parliaments, had been adopted with all but perfect unanimity. The delay that took place in effecting their object was occasioned solely by the obstinate resistance made by the College Council and total indifference of the local Government to popular opinion. The influence of the Executive in the Legislative Council was such, that the persons composing the former could at any time either put a stop to the most wholesome measures, or forward to the utmost extent the sinister interests of any party whom they wished to favour. The Executive and Legislative Councils were indeed two bodies in name but one in fact—the persons composing the one being the majority in the other—and each being alike irresponsible to the country. Under such an administration and antagonism of principles and interests in the different branches of the Legislature, it was utterly impossible that the system of Civil Government could effectually promote the prosperity of the Province, or that wholesome measures could be passed suitable to the wants and happiness of the people. The history of the University of King's College shews that the British Government had no wish to govern Canada, but in accordance with the wishes of the great majority of the people, where these wishes were perfectly known and understood; but the proper influence of the British Government was at that time comparatively unfelt, and the successive Governors, after a brief show of resistance, tamely submitted to the absorbing influence of the local oligarchy. In this manner the Bill for opening the University to all classes and denominations, although urgently and almost unanimously demanded by the people, was destined to share the fate of almost every other measure of a popular character. It was thrown under the table of the Legislative Council, and the ardent expectations of the country were disregarded with the reckless indifference of a party long habituated to trample upon popular rights.

The arrival of Sir Francis Bond Head in 1836, and the general tenor of his instructions, again excited the hopes of the friends of popular Government. The distinct recognition which these instructions contained, of the right of the Provincial Parliament to legislate on the subject of the University, and the desire evinced by the British Government to have the Educational Seminaries adapted to the circumstances of the country, afforded the highest gratification to the friends of

Education. Respecting the Collegiate Institutions of the Province—a complaint having been made by the Assembly that Upper Canada College was upheld at great public expense, with high salaries to its principal Masters—Lord Glenelg observed in his Despatch of 5th December, 1835:—

> "His Majesty's Government can have no wish to retain any charge for this Establishment, which may be more than adequate to provide for the effective performance of the duties of the Teachers. Any wise retrenchment of that nature may, subject to the principles already mentioned, be immediately introduced. That the Province derives little benefit from this College, is a fact of which the explanation is to be found, not in the principle of the Institution itself, but in some error of management, susceptible, as it should seem, of an easy remedy.
>
> "On the subject of King's College,—an unfortunate difference of opinion exists between the Council and the Assembly, which each of these bodies concurs in pronouncing incurable.
>
> "His Majesty commands me to tender, through you, his mediation on this subject. With the previous assent of both Houses, the King will cheerfully resume the consideration of the question, in what manner a Charter could be most conveniently prepared, so as to promote the interests of Science and Literature, and the study of Theology and Moral Philosophy, with a due regard to the opinions which seem to prevail in the Province respecting the proper constitution and objects of an University. But after having distinctly referred to the Local Legislature the duty of giving effect to their own wishes on the subject, in *the form of an Act of General Assembly*, his Majesty cannot, at the instance of one only of the two Houses, withdraw it from their cognizance."

Lord Glenelg's instructions to the Lieutenant Governor were laid before the Assembly, but events of a more pressing nature soon absorbed the attention of the Province, and the subject of University Reform was for a time laid aside. The contest between Sir Francis Head and the House of Assembly, respecting the responsibility of the Executive Council, created a serious rupture which ultimately led to the refusal of the supplies, and terminated in the dissolution of Parliament. Whatever the real merits of that contest may have been, it is certain that in consequence of the extraordinary course then pursued by the Lieutenant Governor, the tone and character of the next House of Assembly did not reflect the true state of popular feeling on many of the important questions which had previously agitated the country. No change had exhibited itself in the sentiments of the people on the subject of the University, but the elections had been decided on a question of a more exciting character—visionary indeed of itself, but sufficiently plausible to afford available capital for Government agitation. The question of "British Connection" was represented as depending on the votes of the electors at the Hustings—and so successfully was the country deluded by a mere electioneering trick of the Government, that many individuals whose loyalty would otherwise have been far above suspicion, were deprived of their seats on account of their strenuous maintenance of popular rights. Notwithstanding the personal aversion, however, entertained by the majority of the new Parliament to interfere with the Charter of the University, the necessity of some alteration in its constitution was forced upon them by the prevailing sentiments of the country, and the modifications effected, however reluctantly admitted and injudiciously made at least settled the great principle for which the people had so long and anxiously struggled—the right of all classes and denominations to a full and free participation in the benefits of the Institution.

In November, 1836, a Committee consisting of Messrs. Draper, Burwell, Aikman, Sherwood and Cameron, were appointed to frame a Bill which would meet the demands of the country without being obnoxious to the illiberal principles of the Legislative Council. The Committee accordingly reported a Bill to amend the Charter of King's College; and as the principle upon which this measure was framed will claim some importance in the argument which it is proposed in a subsequent chapter to deduce from the historical sketch which has been given, it is proper to quote the principal amendments.

After reciting the original Charter, the Bill enacted that the Judges of his Majesty's Court of King's Bench should, for and on behalf of the King, be Visitors of the College, in the place and stead of the Lord Bishop of the Diocese of Quebec, for the time being; and that "the President of the said University, on any future vacancy, shall be appointed by his Majesty, his Heirs and Successors, *without requiring that he should be the Incumbent of any Ecclesiastical office*; and that the members of the College Council, including the Chancellor and President, shall be twelve in number, of whom the Speakers of the two Houses of the Legislature of the Province, and his Majesty's Attorney and Solicitor General for the time being, shall be four, and the remainder shall consist of the five Senior Professors of Arts and Faculties of the said College, and of the Principal of the Minor or Upper Canada College; and in case there shall not at any time be five Professors as aforesaid in the said College, and until Professors shall be appointed therein, the Council shall be filled with members to be appointed as in the said Charter is provided, *except that* IT SHALL NOT BE NECESSARY *that any member of the College Council to be so appointed, or that any member of the said College Council or any Professor, to be at any time appointed, shall be a member of the Church of England, or subscribe to any Articles of Religion other than a declaration that they believe in the authenticity and divine inspiration of the Old and New Testaments, and in the doctrine of the Trinity*; and further, that no religious tests or qualification be required or appointed for any person admitted or matriculated as Scholars within the said College, or of persons admitted to any degree or faculty therein."

The Bill passed both Houses of the Legislature without opposition, and received the Royal Assent on 4th March, 1837.

The principle of perfect religious equality among Christians professing the doctrine of the Trinity, thus recognized by the Legislature in the abandonment of the Episcopal test in the Amended Charter, was supposed to have terminated the struggle for religious freedom in this great educational institution. The University was satisfactorily divested of the Episcopal character imposed upon it by the original Charter, and the special claim of any religious denomination to exclusive privileges and provisions was intentionally barred. Unfortunately for the

Institution the individual, whose violent hostility to popular freedom and the rights of conscience, will give to his name an unenviable prominency in the civil and religious annals of this Province, was left by the Amended Charter at the head of the management; and thus the struggle which the people fondly believed to have been terminated by the interposition of Parliament, was renewed and maintained with hostility as determined, and zeal and energy as persevering as ever on the part of those whose duty it was to carry the principles on which the University was finally established into operation. The supposed termination of the *public* contest for principle, which appeared to make a full recognition of the rights of all denominations of Trinitarian Christians was a mere truce, that the battle might be fought on different ground. The scene of operations was merely changed from the Parliament of the Province to the Council Board of the University. But before we transfer the combatants to this new arena, in which some remarkable manifestations of character have been made, it is befitting that we briefly review the ground over which we have travelled.

In a more discursive history of the University of King's College, the intimate connection of that institution with the agitating questions in education and religion which have for so many years disturbed this Colony, should have been exhibited more fully than the pretensions of the present sketch have permitted. And this might easily have been done by setting forth on the one hand the contemporaneous struggles of the people to obtain for themselves absolute freedom of thought and action in matters of faith and government, with equal advantages to Christians of all denominations so far as education and civil rights were involved; and on the other the attempt rashly and sternly persisted in by a dominant compact, to introduce and perpetuate in this Province a dominant Church and a negative persecution of what that Church chose to denounce as heterodox.

When the Clergy Reserves were set apart, it is possible that the formation of a dominant Church established on the model of the Church of England may have been intended—and had such an intention existed it would appear to us only as the natural offspring of the state of religious intolerance, which prevailed in most nations of Europe, where for centuries past religious struggles were not for equality but for domination, and where each sect, without even professing toleration, sought either to maintain itself in the national Church or to reform that Church to its own model. The Presbyterian form of worship and discipline, after a futile attempt to force itself upon England, retired into the Church of Scotland and left Protestant Episcopacy the national English religion. The same Sovereign, from the necessity of the case, became the earthly head of two antagonist Churches, sworn to preserve and maintain them both; and when the question arose as to what should stand in the place of a national Church in this Province, the Church of England, as by law established, may have been solely intended, or the national Church of Scotland as equally by law established, may have been contemplated as co-existent with the Church of England. At all events the law in setting apart the Clergy Reserves for a "Protestant Clergy," left the matter entirely open. But the Church of England decided the question for herself that she had exclusive claim to a true Protestant Clergy, and thus got possession of the appropriation.

The original claim of the Church of England to the School Lands did not indeed rest upon the *prima facie* title by which she maintained her right to the Clergy Reserves. For in this case the endowment was placed in the hands of the Legislature for the purposes of *general* education—while in the former it was granted with a restriction which seemed to favour her pretensions. Her claim to the School Lands therefore could only be maintained on her assumed right as an Established Church to have the exclusive direction of popular education.

The first attempt at resistance to her monopoly of the Clergy Reserves arose on the part of the members of the Church of Scotland in Canada, who claimed that the Clergy were Protestant—and not only Protestant, but actually so *as by law established*. Both the contending parties forgot that it was the people of England, and the people of Scotland respectively, who after many years of bloody contention established their Churches in their respective kingdoms—and that what should thereafter be the national Church in the American Colony, if it should ever have one, depended not upon the will of the British Parliament, but upon the faith and doctrines which should be adopted by the future Colonists on their own behalf. Happily, very happily for Canada, the claims of the Scottish Church, though strongly advocated in England, were too weak to prevail against the influence of the Archdeacon of York. The conflict between the rival Churches created sufficient noise to awaken at length those who belonged to neither, and these latter, naturally enough, asked themselves whether they wanted a national Church at all. The Scottish Church being considerably the weaker was baffled in the fight, and joined the independent sects in a combined attack upon the supremacy of Episcopacy; and eventually a national religion, or in other words a form of religion conferring exclusive rights or advantages upon its adherents, became to most intents and purposes a shadow or an empty name.

The High Church party among the Episcopalians, instead of maintaining that the Church of England existed here as a national Church, and that therefore the support granted by Parliament for a Protestant Clergy belonged to this Establishment, contended that the Clergy Reserves were granted and consecrated inalienably to the Church of England as such in this Colony—and for the Clergy they claimed as grantees the whole benefit of the Reserves. The question was mainly debated in this form—but in this shape the real point was avoided. And as the question has an intimate bearing on the claim which the Episcopal Church has set up to the exclusive control of the University, we shall endeavour to place it in its true shape, with such illustration as may be necessary to shew our meaning.

We hold that any people may, by means adapted to their form of Government, erect and endow a national Church. This national Church may be Roman Catholic, and may become Protestant Episcopalian, or Presbyterian, or Methodist, according to the will of the nation constitutionally expressed. And by a parity

of reasoning, as the Church may, in a legal point of view, change its doctrine and still remain a national Church, so the same power which created it, may create many co-existent national Churches, or it may do without any national Church whatever.

At the Reformation in England, besides the confiscations of property appropriated to the Church and taken for state purposes—which confiscations we are not obliged here to defend or condemn—the ecclesiastical benefices throughout the nation were filled with Protestants in the room of Roman Catholics. The appropriations were originally made for the national Church,—not for the Roman Catholic Church;—and the property being national and not Roman Catholic, it continued without wrong in the national Church when it became reformed, and with that reformation forsook the Church of Rome. This could not have been the case had the property attached to the doctrine, or had it been considered in the light of an estate vested in *the Romish Church as once established in England*.

In the same manner in Scotland Episcopacy and Presbyterianism held Church benefices alternately, as either prevailed; but the benefices have continued national and have followed the Church to this day.

Now it is very plain that had England and Scotland contained so many religious persuasions, upon terms of equality, or nearly so, as regarded members and wealth, as to make it impossible for any one to establish a supremacy, the national Church property could not have continued with any one sect. There must in fact have been many national Churches, or no national Church at all.

As regards this Province, it may have been the intention of King George III., or of his Majesty's Parliament, or of his Ministers, that the people of Canada should be all of the faith of the Church of England, or that some portions should profess the doctrines of the Church of Scotland, and that the Canadian Protestant Church should consist of one or both, as a National Church; but it is clear that events did not fulfil the intention. The people of the country, through a diversity of causes, became divided into many religious communities, no one of them having sufficient predominance in numbers or influence to be *the Church*. The Upper Canada Legislature repeatedly desired to have no such Church, and they prayed—as they had a right to do—that the Clergy Reserves should be appropriated to secular education.

By the late division of the proceeds of Clergy Reserves among different religious denominations, the principle has been established in Canada as regards state support—not that there should be no Church, but that there should be many Churches; and as regards any exclusive privilege or monopoly of civil advantages, we have not, thank Heaven, in Canada, a vestige of a dominant Church, except in the University of King's College.

As all Church endowment from national funds is for the religious instruction of the community—however their faith or doctrine may change or vary—so is all public endowment for educational purposes liable to be modified for the benefit

of the people to be instructed, and as an endowment made in Romish times was not one necessarily attached to the Roman Catholic faith, neither is a public endowment for educational purposes—supposing even that it had originally provided for religious instruction in a particular faith—a grant to the professors of that faith, but a grant for a public purpose which must be liable to modification so as to serve the end for which it was originally appropriated.

The University of Oxford once taught the Roman Catholic faith; it is now the chief source of religious education for a Protestant Church. Could this have been so with any regard to justice had the endowment been held to be Roman Catholic, and not national?

The late Clergy Reserve Act is based upon the principle not merely of religious toleration—but of perfect religious equality. Whatever inequality may exist in the distribution of the funds, the principle is preserved in all its integrity. We look upon the passing of that Act as a great event in the establishment of religious freedom, not the less valuable because it was not accomplished through blood and violence; but there yet remains after the wreck of Church predominancy—the wretched attempt of the Council of King's College to invest the Episcopal Church with the attributes of an exclusive education at the public expense—and when that Institution is made *public* and secured for public purposes, and not a nest in which a Clergy can hatch their schemes of Church predominancy—Canada then, and not till then will have religious freedom with absolute religious equality.

But in the settlement of what the character of King's College should finally be this strange anomaly exists. King's College *de jure* is unconditionally an establishment for the education of the Canadian people. *De facto* it is an exclusive institution for the education of a mere section professing the doctrines of the Church of England. Abstractedly the principle of religious equality has been determined by the law—while practically religious predominancy has been imposed by the Council. The obvious conclusion is—not that the principle established by the Legislature should be changed—but that the parties who have inverted the law and insulted its majesty should be superseded. The remedy is one which the law even without legislative aid daily applies towards those who have betrayed their trust and frustrated its purposes. In this case the principal object of Parliamentary interference will be to restore public confidence in an Institution whose purposes have been scandalously perverted by its Trustees.

CHAPTER V

THE ORIGINAL COUNCIL

The original Charter ordained that the Corporation called or known by the name of "the College Council" should consist of "the Chancellor and President of the College for the time being" and of "seven of the Professors in Arts and

Faculties;" and in order to provide for the management of the University by the formation of a Council previous to the appointment of Professors, power was given to the Chancellor "to appoint seven discreet and proper persons resident within our said Province of Upper Canada, to constitute jointly with him the said Chancellor and President of our said College, for the time being, the first or original Council." It was also declared that such persons should vacate their seats at the Council Board immediately on the Professors being appointed.

The proceedings of the Council under the original Charter, so far as connected with the public history of the University, have been incidentally noticed in the preceding chapters. To the members of that body are to be traced all the obstacles which were thrown in the way of the Parliament and the people in their long and arduous struggle for equality of rights in the University as a national School of learning and science. Compelled at length to submit to a partial modification of their exclusive system, the Council directed all the energy and influence of which they were possessed to defeat the intentions of the legislature in opening the institution to the various religious denominations in the Province and to place it permanently under an exclusively Episcopal management. The Amended Charter did not in any respect alter the mode in which the Council was to be constituted but it restricted the number of Professors who were to have a seat at the Board to "the five senior Professors of Arts and Faculties" and extended the number of the whole Council to twelve—the Speakers of the Houses of Parliament, the Attorney and Solicitor General and the Principal of Upper Canada College being members *ex-officio*.

The design of the High Church party to defeat the principle of the Amended Charter was not long suffered to lie dormant. Within a few weeks after the Royal Assent to the modifications of the Charter had been obtained *Dr Strachan* enunciated to the Council another of his invaluable "schemes" for making the University subservient at once to the interests of the Episcopal Church, and to an enlargement of his personal and pecuniary advantages. The new proposition, which he submitted to the Council on 26th April 1837, affords a curious specimen of the consummate art with which he attempted to ingraft his personal influence on the subordinate departments of the institution, so as to render his authority co-extensive with its most minute details. In other respects it presents a no less happy illustration of the confidence with which this "Universal Doctor" was inspired in his own pre-eminent qualifications as a public teacher. After a passing tribute to the High Church University of King's College, London, he thus proceeded to place his intellectual resources at the disposal of his country.

> "Besides general superintendance it is proposed to make the services of the President available for the Professorship of Moral and Intellectual Philosophy, with Christian Ethics and Political Economy. It will likewise be his duty to instruct such Students as belong to the Establishment in Christian Theology."

It might be no easy matter to determine the precise amount of loss sustained by the youth of Canada in being deprived of the services of Dr Strachan as an Academical Encyclopedia—but we have at least the guarantee of Dr Strachan's modest assurance that the faculty of discoursing on such abstruse subjects as Moral and Intellectual Philosophy, Political Economy, Christian Ethics and Christian Theology, may be acquired in a less intellectual atmosphere than within the walls of an University. For at what far-famed Academy did this "Universal Doctor,"

"Qui tria, qui septem, qui omne scibile novit,"

complete the cycle of universal study? Truly we may felicitate ourselves on the wonderful achievements of the Clergy since the times of an early English Monarch who was wont to complain that not a single priest south of the Thames, and very few on the north, could read either Latin or English. But our admiration of Dr. Strachan's innate excellencies rises into adoration when he informs us that "the labor will not be so great as on a slight view might be anticipated," and that he does not intend to confine his services to the fluent discovery of those illimitable stores of learning which would have delighted and instructed remote posterity, but that he will also generously undertake the task of selecting the Professors for the various departments of Art and Science which excessive diffidence alone prevented him from pre-occupying. In this latter instance of his enterprise it may have been that the bright forms of Crosier and Chaplains floated before the prophetic vision of the learned Doctor and that he was slightly influenced by the consideration that another visit to England at the public expense might place within his grasp the objects of his devout solicitude—but apart from such motives of piety it was highly proper that his learned colleagues and fellow labourers in the Council and in the College should be free untainted by the heterodoxy in politics and religion which was evidently diffusing itself over the Province of Canada. He, therefore proceeds in the developement of his scheme

"So soon as matters are in a proper train, it is submitted that the President be authorised to proceed to England to select the Library Apparatus, &c. *likewise to assist in choosing such efficient professors* AS ARE CALCULATED TO LIVE IN THE CLIMATE."

How interesting is the worthy Doctor's anxiety for the physical qualifications of the professors. Not a word escapes him of their due instruction in the Thirty nine Articles and the doctrine of passive obedience. Every orthodox consideration is merged in a parental solicitude for long life, and we are naturally led to anticipate proposals for Policies of Assurance, or at least the sanatory recommendation of a frequent and careful perusal of Sir John Sinclair's invaluable Code of Health. It is doubtless a [illegible] curious exercise of ingenuity to trace under this specious proposition a well planned design for riveting the fetters of an Episcopal ascendancy on the University. For although the modifications effected by the Legislature were intended to deprive the Institution of the Episcopal restrictions imposed on it by the Original Charter, yet it was sufficiently obvious that if Dr. Strachan could succeed in filling the Council Board and the Professors' chairs with individuals hostile to the rights of the other Christian denominations and sufficiently subservient to his own authority, the intentions of the Legislature might be clandestinely frustrated, and the University would speedily resume its original character. The very absurdity of its pretensions, however, destined the scheme to defeat. A copy of the detailed proposition found its way into the public prints, and so agitated the country with merriment that Dr. Strachan found it convenient to restrict his pretensions to the Chair of Theology.

The "scheme" was only abandoned to be re-produced in another shape. Dr. Strachan's ambition was at length gratified with the object of his devout aspirations. The high dignity to which he had attained, as Episcopal Bishop of Toronto, was incompatible with the humbler duties of a Professor's Chair: but it became necessary, in such circumstances, to maintain, in the University, the unbroken chain of Episcopal succession.

The Original Charter ordained that "the Reverend John Strachan, Doctor in Divinity, Archdeacon of York," should be "the first President of our said College," and that the President should be *ex-officio* a member of the Council. It does not contemplate the exercise of any extraordinary power on the part of the President beyond that of any other member, further than the right of presiding at the meetings of the University, and exercising the usual functions of a Chairman. His other duties necessarily begin and end in the Council, and his authority in the University extends simply to matters as to which the Council may give him a special delegation. As a recompense for these common duties as a Trustee in the management of the property, he had contrived to appropriate for about twelve years the annual salary of £250 sterling, which was regularly paid until Sir George Arthur put a stop to this disgraceful misapplication of the funds. In consequence of this untoward circumstance Dr. Strachan's zeal for the University appears to have experienced some abatement, but it was scarcely to be expected that he would relinquish the influence which he had so long exercised without making a violent effort to secure an identity of interest and disposition in his successor.

The political changes to which the Province was soon afterwards subjected, afforded ample opportunity for putting in operation the new series of intrigues which we are now to place before the public. The active interference of the successive Chancellors, Sir George Arthur and Lord Sydenham, had some effect in placing the financial affairs of the University on an improved basis, but the general system and the character of the Council remained unchanged, and, at length, the removal of the Seat of Government from Toronto, by depriving the Council of the only members from whom enlarged views were likely to emanate, left the University entirely in the hands of an Ecclesiastical Compact, whose extravagant and unscrupulous conduct has brought it to the verge of ruin.

In anticipation of the University being speedily opened for the purposes of instruction, it became an object of paramount importance in the Council to make arrangements for the change in its constitution consequent on the appointment of Professors. The Charter distinctly recognised an order of precedence among the Professors, and imposed certain duties upon "the Senior Professor," which gave him rank and importance next to the President. In the arrangements for carrying the University into operation, a Professorship of Theology was determined on, in direct opposition to the Amended Charter; and, following the example of the older Universities, the Chair of Theology received the precedence in a statute approved by the Chancellor, and passed by the Council. So long as Dr Strachan's claim to this Chair was preferred, this arrangement was, of course, satisfactory to the parties by whom it had been planned; but on the abandonment of that claim, it appeared to the Council to be expedient—while any uncertainty as to the individual who might receive the appointment existed—to defeat the provisions of the Charter by a Council Statute better adapted to their sinister purposes. Accordingly, favoured by the changes in the Head of the Government, the Council framed a new Statute by which they determined the seniority of the Professors on the principle of retaining in the Second Council the individuals who had been most prominent for their bigotry and High Church zeal in the Original Council; and thus ultimately succeeded in placing the University at the most critical period of its existence—the commencement of its public operations—in the hands of parties who had never relinquished the intention of converting it into an Episcopal College.

The new statute of the Council brought into existence an office unprecedented in any Academic Institution in Europe. By concentrating an unlimited discretionary power in one individual known to be favorable to their designs, provision was made for carrying out the schemes of the High Church Party without the solemnity of Statutes, which if liberal might have received opposition either from the Chancellor or the future Council. To guard against such a contingency the new office of "Vice President" was created by a Council Statute—framed by a well disposed Committee of which the very individual for whose exclusive benefit it was created was Chairman. The statute received the ready approval of his spiritual colleagues, and swelled the brilliant series of retrospective "preferments," to which Dr McCaul may have subsequently alluded in his brief for a learned Counsel, by saddling the University with an annual burden of £250 sterling—which it has been the means of conferring on Dr McCaul in addition to the ample endowments he derives as one of the best paid Professors in the University. The intention of the Statute obviously was to supersede the necessity of a discretionary Council, and by placing in the hands of Dr M'Caul, already notorious in the Province as a violent and bigotted High Church partizan, the entire direction of the Institution, to reduce the Council itself to a nullity, or at the best, a mere instrument for the gratification of his unbounded passion for power. The office itself was not only repugnant to the spirit as well as the letter of the Charter, but the powers and duties concentrated in the individual whom the statute contemplated were directly at variance with the acknowledged principles of law by which the functions of Trustees are regulated.

It will be afterwards a matter of some interest to enquire what were the nature and extent of Dr McCaul's proceedings under this appointment. At present it is merely referred to in reference to its gross illegality. Not only is no such officer contemplated by the Charter, but direct reference is made to the person who shall rank next to the President of the University, and who shall be entitled, in absence of the President, to perform his duties,—namely, "the senior member of the said Council present," and the precedence of this senior member is again significantly referred to in a subsequent part of the Charter in which the Chancellor is enjoined "to consult with the President of our said College, and the next *senior member of the said College Council*, respecting all statutes, rules and ordinances to be proposed by him to the said Council for their consideration." And the Charter further declared, that "*the seniority of the members of the said Council, other than the Chancellor and President, should be regulated according to the date of their respective appointments.*" Under these provisions it was competent for the Council to have appointed Dr. McCaul a dean or proctor of the University—although the policy of conferring such office on one of the Professors might have been questionable; but in either of these offices his duties would have been strictly ministerial; he would have been the servant of the Council, not its dictator, and his genius would have been applied to purposes for which it was evidently intended—the enforcing a discipline which others more qualified had projected. But it was obviously *ultra vires* of the Council to infringe the rights of "the senior member" by the appointment of an officer who should not only supersede him as one of the advisers of the Chancellor and take precedence of him in the Council where his position was accurately determined by the Charter, but who should possess powers co-extensive with those of the Council itself.*

---

* It is a well recognised principle in Equity, that the office of Trustee being one of personal confidence it can in no case be delegated to another. The existence of a discretionary trust is at variance with a delegation of its execution to a stranger who could only be made responsible for ministerial acts. And it makes no difference that the individual to whose instrumentality its execution is entrusted is a co-Trustee. The authorised Trustees are not only personally answerable for all the mischievous consequences of the delegation, but all the acts of the substitute which are of a discretionary character are *actually void*. It is notorious that under Dr. McCaul's disastrous management the University incurred liabilities to an extent and of a character far transcending the most profligate periods of the administration of the University affairs. Valuable lands were recklessly disposed of to meet the pressing exigencies caused by his frivolous and puerile extravagance and misapplication of the trust property; and at this moment the University is struggling with pecuniary difficulties which have already considerably impaired its efficiency, and actually threaten its solvency unless immediately relieved by the sale of a large portion of the endowment. An attempt is indeed being made to prevent a public exposure by disposing of the University Lands, but as the College Council has no authority under the Charter to effect any such sales, so hazardous a speculation will scarcely tempt purchasers whose rights will in all probability be defeated in a Court of Equity.

If the Statute itself was illegal *ab initio*, the manner in which the powers under it have been executed has placed it far beyond the pale either of law or of reason. Were the subject not associated with the grave considerations it would move to tears of laughter to describe how

"Vaulting ambition hath o'erleaped itself,"

and to witness the misapplication of talents which might have made a pedagogue respectable, but which were unhappily never designed by nature for the higher duties of government in a University. The subject will, however, merit due consideration, when the educational operations of the Institution fall to be detailed.

It is certain that the appointment was considered to be illegal by the Law Officers of the Crown—and that such is its effect will be sufficiently obvious from a summary of the discretionary powers with which the Statute has invested this anomalous officer. The statute proceeds on the preamble that the residence of the President within the precincts of the University and his personal superintendance of its internal affairs are incompatible with the discharge of his ecclesiastical duties. It therefore declares that there shall, during the Presidency of the Bishop of Toronto, be a Vice-President, *who shall be one of the Professors, and who shall have precedency and seniority next to the President*: that the Vice-President shall reside within the precincts of the University: that he shall preside at all meetings of the Convocation in absence of the Chancellor and President: that it shall be his duty to examine Students previous to matriculation, to *maintain observance of the Statutes by the Professors*, Scholars, and all other members of the University—to enforce such observances and discipline by *admonitions and punishments*—to be the parent and guardian of the Students, to direct them in their studies—to promote by all means in his power their progress in religion and learning—preside over College exercises—regulate inferior officers and servants—*and inspect all the affairs of the College not appertaining to the Bursar's office.**

The creation of the office of "Vice-President," irrespective of its own merits, assumes an importance in the History of the University, from the circumstances which followed the appointment. It brought the rights of the respective Professors into collision by involving the order of precedence in doubt, which was only set at rest, after considerable delay, by the interposition of the authority of the Chancellor, into whose hands the Professors deemed it necessary to surrender their appointments. The authority of the Council was thus, for a time, placed in abeyance, and during an interregnum of several months the favourable opportunity was seized by the Vice-President of gratifying his insatiable passion for frivolous display and extravagance, with the zest to his disastrous Administration that it was uncontrolled by any thing like personal responsibility. The absence of responsibility during the abeyance of the Council affords, indeed, a striking argument for the illegality of the office. It would be monstrous to suppose that the guardians of a public trust could at any time throw off their responsibility to the public by not only delegating the powers vested exclusively in themselves to the instrumentality of an irresponsible officer—but actually bequeathing these powers which could only be exercised—if they could be legally exercised by delegation at all—during the existence of the original Trustees.—And yet to whom was the Vice-President responsible? Not, certainly, to the old Council, whose existence was no longer recognized by the Charter; and assuredly not to the new Council, for he could possess no authority from them till his appointment had been confirmed. And yet during the interregnum this officer usurped powers of administration as ample as the first Council ever affected to possess, and signalised the period of his usurpation by a daring violation of the provisions of the Legislative enactment under which the University went into operation by gross misapplication of the funds of the Institution and by the introduction of a discipline alike repugnant to the feelings of the community and disastrous to the interests of the University

---

* By another Statute of the Council the important concerns of the Bursar's office were confided to the parental care of the Bishop of Toronto.

* * *

CHAPTER VI.

THE OPENING OF THE UNIVERSITY.

In June 1843 under the Administration of the "Vice President" the University was opened for the purposes of Education. It is important to observe that this step was taken while the authority of the College Council was in abeyance, and before a single statute had been passed for regulating and enforcing the government and discipline of the Institution All the preparatory arrangements seem to have been made under the discretionary authority of Dr McCaul as Vice-President and as the same unlimited power extended over the whole of the first term his name may very justly be associated with the singular details which have given to the University its present tone and character

The Council now felt themselves in a position to offer open violence to the principles of the Amended Charter Every effort was studiously made to impress the public mind at the outset with their determination to defeat the intentions of the Legislature by imposing an Episcopal character upon the Institution Under no authority from the Charter but in flagrant violation of its spirit a Theological Chair had been established from which the doctrines of the Church of England were to be taught by a Professor selected from the University of Oxford—the fountain of orthodox illiberality and prejudice With one exception the Professors had been all taken from the bosom of the Episcopal Church—a circumstance in no respect detracting from their qualifications but the result of something more than accident and certainly calculated to have a material influence on an institution which in other respects, has been so carefully moulded to Episcopal prejudices. A chapel had been fitted up at great expense for the exclusive accommodation of the Episcopal members, in which every student was compelled, unless favoured by the dispensation of the Vice-President to worship daily according to the ritual of the Church of England In the most minute details of dress and discipline the Universities of Oxford and Cambridge which have been so long distinguished for violent hostility to the Dissenters, were imitated with a precision abundantly significant of the spirit in which the University of King's College was to be governed. The frivolous taste of the Vice-President was amply gratified with the melo-dramatic effect of caps gowns hoods, surplices, gilded maces and baubles Utterly destitute of that comprehensive grasp of intellect which would have seized upon and incorporated those higher and nobler features which have rendered the ancient Universities of England venerable in spite of their corruptions, his genius seemed to soar no higher than the mere *tailoring* department, in all the frivolities of which it revelled as if under the influence of a miserable monomania, and of a silly anticipation that those venerable absurdities which had grown up on the banks of Isis and Cam, would impose upon the people of Canada, and would compensate for the absence of all that was solid and useful, and adapted to the position of the country, and to the genius and wants of the people.* Undismayed by an Exchequer impoverished by its own

---

* We acknowledge a high respect for the Academic Institutions of England, but none for the corruptions under which they labour. Nor has all the frothy declamation of the Vice-President convinced us that England owes much of her renown to the system upon which these exclusive Establishments are conducted. It would be as absurd to attribute the greatness of English literature to the course of Academic instructions at the Universities, as it would be to trace the greatness of England's commercial prosperity to the restrictions upon her trade. It is not, however, against the Institutions themselves that we are inclined to inveigh, but against the abuses which are there permitted to flourish in exuberant rampancy. If we have formed an unjust estimate of their merits, we have at least the satisfaction of erring in company with the greatest names of which English literature has to boast. Bacon spoke of their constitution with reprobation. Milton condemned their injurious influence in retarding the expansion of the mind. Dryden regretted the time which they had caused him to misspend. Clarendon felicitated himself on his escape from them. Swift, Gray and Gibbon assailed them with the keenest shafts of their raillery—and Junius described them as a "peaceful scene of slumber and thoughtless meditation." It would be easy indeed to establish, by the testimony of a series of the most gifted minds which England ever produced, that at no period of their history have these ancient Universities been free from gross corruptions and defects, and we take advantage of a note to quote a few of the authorities immediately at hand, and from whom a more favourable representation might have been expected, if truth could have been sacrificed for the sake of interest and inclination.

"In the Universities they learn nothing but to believe: first to believe that others know that which they know not, and after, themselves know that which they know not. They are like a becalmed ship; they never move but by the wind of other men's breath, and have no oars of their own to steer withal."—*Bacon's Tract on Praise of Knowledge.*

"In the Universities, all things are found opposite to the advancement of the sciences; for the readings and exercises are here so managed, that it cannot easily come into any one's mind to think of things out of the common road; or if, here and there, one should venture to use a liberty of judging, he can only impose the task upon himself, without obtaining assistance from his fellows; and if he could dispense with this, he will still find his industry and resolution a great hindrance to his fortune. For the studies of men in such places are confined, and pinned down to the writings of certain authors; from which, if any man happen to differ, he is presently reprehended as a disturber and innovator."—*Novum Organum, Ax.* 90 *lib.* I.

"Such are the errors, such the fruits of misspending our prime youth at the Universities, as we do, either in learning mere words, or such things chiefly as were better unlearned."—*Milton's Tract on Education.*

"The two wells of learning, Oxford and Cambridge, are dried up, students decayed, of which scarce an hundred are left of a thousand; and if in seven years more they should decay so fast, there would be almost none at all; so that the devil would make a triumph, while there were none learned to whom to commit the flock."—*Dr Bernard Gilpin's Sermons preached at Court.*

"The Universities, Oxford especially, have been unhappily successful in corrupting the principles of those who were sent to be bred at them; so that few of them escaped the taint of it; and the generality of the Clergy were not only ill-principled, but ill

reckless extravagance, a crowd of lacqueyed officials was employed to swell his personal pomp,—as if to prove that an endowment for the public benefit was to be administered as if nothing more was to be considered than the private gratification of its Trustees.*

---

tempered; they exclaimed against all moderation as endangering the Church; though it is visible, that the Church is in no sort of danger from either the numbers or the interest that the dissenters have among us, which, by reason of the toleration, is now so quieted that nothing can keep up any heat in those matters, but the folly and bad humour that the Clergy are possessed with, and which they infuse into all those with whom they have credit." "In those seats of education, instead of being formed to love their country and constitution, the laws and liberties of it, they are rather disposed to love arbitrary government, and to become slaves to absolute monarchy; a change of interest, provocation, or some other consideration, may set them right again as to the public; but they have no inward principle of love to their country and of public liberty; so that they are easily brought to like slavery, if they may be the tools for managing it."—*Bishop Burnet's Hist.*

"Let him who is fond of indulging in a dream-like existence go to Oxford, and stay there; let him study this magnificent spectacle, the same under all aspects, with its mental twilight tempering the glare of noon-tide, or mellowing the shadowy moonlight; let him wander in her sylvan suburbs, or linger in her cloistered walls; but let him not catch the din of scholars or teachers, or dine or sup with them, or speak a word to any of the privileged inhabitants; for if he does, the spell will be broken, the poetry and the religion gone, and the palace of his enchantment will melt from his embraces into thin air." "What has been the result of the system of education pursued at the Universities? During the last two centuries, one class of statesmen has resisted all improvement, and their opponents have been hurried into intemperate alterations; whilst philosophy, lamenting these contentions, has, instead of advancing the science of government, been occupied in counteracting laws founded upon erroneous principles; erroneous commercial laws; erroneous laws against civil and religious liberty; and erroneous penal laws."—*Montagu's Life of Bacon.*

Founded by priestcraft, closely linked with its professors in the earliest times, and always in the hands of the ruling powers of the Church, the Universities have in every age been most exclusively appropriated to the education and usages of the Establishment and its members. The most rigorous compliance with its doctrines has always been exacted; the strictest exclusion of all Dissenters from it has uniformly been practised. As long as Popery was the religion of the State, the Universities were rigidly Catholic; and indeed their endowments in by far the greatest part proceeded from the bounty and piety of Romanists and were given for the propagation of the Romish faith and the upholding of the Romish discipline. When the State threw off its allegiance to the Pope, and became Protestant, the Universities followed, and piously directed all the donations and bequests of their Catholic founders to the destruction of the Catholic religion, embracing the reformed faith, with the intolerance of their old profession, and transferring to Dissenters the hatred which they had formerly borne to the doctrine and discipline of Protestants. But this hatred was very cordial, if not very consistent; and no participation in their endowments could ever be hoped for by any one who was not prepared to avow an implicit belief in the dogmas of the Church, and testify it by an outward observance of her ritual every day, as well as by occasional declarations and signatures of a more solemn kind.—*Edin. Rev.* Aug. 1825.

"'One fortnight,' observes Dr. Pusey, 'comprises the beginning and end of all the public instruction which any candidate for Holy Orders is required to attend previously to entering upon his profession.'"

"'The University of Oxford,' Professor Sewell confesses, 'is not an enlightened body—we (its members) have little liberality in religion, and we study logic in a very humble way.'"

* It is a deplorable fact that the number of salaried Officers in King's College nearly equals that of the Students who have matriculated during the three first terms.

The gross and anile attempt to establish the Collegial residence and discipline in all those unimpaired deformities which have caused the eminence of Cambridge to alternate in fearful oscillation between a School of Learning and of Licentiousness, showed how little this Vice-President knew or understood the history and character of those Institutions upon whose mechanism he seems to have gazed with a sort of savage bewilderment, without being able to comprehend any one of the principles upon which it had been set in motion or kept in operation. Under his administration, the first of a series of Monastic Establishments has been completed at a ruinous sacrifice of the endowment, with no other apparent object than that of giving the University the paltry monopoly of the board and lodging of a handful of Students.

It is, indeed, an undeniable fact, that such establishments, formed on the Monkish model, are to be found at Oxford and Cambridge, but it is no less true that they have been the principal causes of the immorality which prevails to an alarming extent at these famous Schools, and they are now only tolerated as part of an ancient system,—the necessities under which they were instituted having long ceased to exist. In early times, the English Universities were not merely national but were in every sense cosmopolite institutions. During the middle ages Students flocked to them as the Schools of eminent teachers, from every country in Europe. The vast concourse of Students occasioned a scarcity of lodgings and exorbitant demands for rent in the towns where they were established, and a serious difficulty was thus created to the poorer classes of Students, whose means were unable to meet the demands which the increasing celebrity of the Schools occasioned. The benevolence of individuals was stimulated to relieve the Students of a burden, which many of them could ill afford to bear, by providing them with free lodging during the progress of their studies, and the domestication of the Students consequently became a prominent part of the system. Some of the Colleges had, indeed, been founded solely for the support of indigent Scholars, but the practice of domestication has been in a great measure perpetuated at Oxford and Cambridge by the illegal monopoly which the private Colleges have usurped over the national Universities. In every other country in Europe the system of domestication has been gradually but certainly relinquished as altogether unsuitable to the character and not required by the necessities of the times. The University buildings present nothing more than an aggregation of class-rooms, in which the proper business of the University is conducted with reference to the public benefit, and not as Normal Schools for the training of Vice Presidents, at the public expense. It was reserved, however, for Canada to lead the way in a revival of those Monkish features of the ancient Universities, as if the more sincerely to evince the Puseyite tendencies of her population by the adoption of a system to which she was constrained neither by her necessities nor her interests.*

---

* The origin of the Collegial system was almost contemporaneous with the establishment of the ancient Universities, and was adopted from the University of Paris, which was the model upon which the English and most of the Continental Universities

It is with the *morals* of the system upon which the College Council are proceeding that we have at present to do. Their eccentric taste for architectural embellishments and economical arrangement, and the adaptation of their means to the end proposed, will be more appropriately discussed in the subsequent Chapter. But surely the people of Canada do not require to be warned against the fearful demoralization and licentiousness, which the system of domestication will inevitably introduce. We dare not stain our pages by more than a bare reference to those immoral practices, which, notwithstanding the vigilance of an extensive police, prevail to an alarming extent at Oxford and Cambridge. The truth of the charges which have been frequently made against these Institutions has been lately established in the British Parliament by revelations from the personal experience of some of its most distinguished members. The hopeless insubordination that has hitherto attended Dr. McCaul's administration will scarcely afford a guarantee for purity of morals at King's College under the monastic system, and under an enlarged sphere of action. Nor can any plea of necessity be adduced for so hazardous an experiment in a city where there exists sufficient competition among Boarding Establishments and ample accommodation for the largest influx of Students that could be anticipated, even were the University to accomplish the purposes for which it has been established by law.

The only argument to which any weight can be attached for retaining the system of domestication in the English Universities is, singularly enough, the only one which the Trustees of King's College seem to have despised—namely, the opportunities which it has afforded to indigent scholars of a complete course of academic instruction. To the honour of England it should be acknowledged that she has offered facilities to persons from the very humblest walks in life for rendering themselves masters of all the knowledge that it was in the power of the most learned Professors to bestow; and it is a pleasing reflection that some of the greatest names which have adorned her Universities thus owe their greatness to her bounty. But to the ineffable disgrace of Canada, a noble endowment, which was calculated to afford to its youth a liberal education, adapted to the necessities of a young country, has been so frittered down and wasted by wilful extravagance, misapplication, and a base thirst for personal aggrandizement, that at the present moment she has not wherewithal to educate a free scholar at her University.

---

were formed. In Germany, the Collegial Establishments never obtained a decided predominance over the functions of the Universities. In the older Universities of the Empire, the system of Conventual Establishments only extended to the habitation, aliment, and superintendence of the youth, and such institutions were no where called into existence after the commencement of the sixteenth century. Prague, Vienna, Heidelberg, Cologne, Leipsic, and a few others, all possessed, in early times, such establishments; but since the revival of Letters they have been unable to maintain any importance. In England, where they have long usurped the functions of the Universities, the Colleges have owed their stability to their immense wealth. The narrow system of tutorial instruction has accordingly predominated, and has tended, in a remarkable degree, to impair the efficiency of the Universities. This is no vague charge against these Institutions, but has been long a matter of complaint by their warmest admirers.

It would be unnecessary to waste argument on the system of general domestication, when the designs of its projectors are obnoxious to a more aggravated charge than that of imbecility. The attempt is subservient to the great scheme which the Council have cherished with undying affection,—to convert the University, by the instrumentality of domestic superintendence, into a nursery of High Church prejudice and intolerance. And in pursuance of this design, another purpose favourable to the same object will be effected. The buildings necessary for the proposed domestic accommodation, and which can never be adapted to any other purpose, will make such an inroad on the endowment as will effectually silence all demands for a participation in its benefits by the other Christian sects. The modification of the system which has been introduced until the domestic arrangements have been completed, has proved its perfect adaptation to the purposes intended. The aggregate fees of the Students during the first and second terms have been found just sufficient to cover the expense of their dinners: but the practice has afforded an admirable opportunity for introducing those venerable High Church toasts which lend their potent qualities to the small beer with which the Students are regaled on these festive occasions. The Vice-President, unwilling to put a stop to such virtuous ebullitions of youthful orthodoxy, has with much liberality granted dispensations to such of the Students as have interposed their prejudices to the general current of orthodox sentiment.

It was an ominous circumstance that the first step which was publicly taken on opening the University should have been chargeable with gross and reprehensible deception. The Students were called upon to subscribe a declaration of obedience to the Statutes, Rules and Ordinances, framed under the provisions of the charter, and the Vice-President gave the sanction of his authority to this solemn mockery, under the full consciousness that not a single Statute had been passed by the Council which could in any respect affect the discipline of the institution. The Charter had indeed ordained that the discipline and government of the University should be enforced through the operation of Statutes; but as the Council had determined that the Charter should only take effect in so far as it favoured their sinister designs, they foresaw that they could outrage the law with more perfect impunity by transferring the government to an irresponsible officer than by placing that officer under the operation of legal statutes, on the evidence of which they might have been brought to punishment for a betrayal of their trust.

The design of subverting the law by a secret evasion of the provisions of the charter was incautiously but strikingly disclosed in the Inaugural Address of the President, whose literary predilections have so frequently proved disastrous to the "schemes" of his party. He alluded to the principles of the original charter in terms expressive of the value he attached to his own exertions in behalf of the Episcopal Church. He characterised it as "the most liberal that could be framed on constitutional principles"—and denounced those who had struggled for equality of rights, and whose claims had received the sanction of a parliamentary modification of its exclusive provisions as "turbulent spirits," who had taken much pains by calumnies and misrepresentations to poison the minds of the people against the charter." He referred in terms of warm admiration to the resistance which the College Council had uniformly made to "the unchristian intrigues and dissensions" by which their designs had at length been frustrated. The London University, to which in some respects the Amended Charter had assimilated the University of King's College, he denounced as "an infidel attempt which had signally failed, as all such godless imitations of Babel ever must." "The same considerations," he observed, "also convince me that had the University been permitted to proceed under the Royal Charter without alteration, it would have been far more efficient for all the purposes intended, than in its present form." And he defended a recurrence to the original system on the ground that the Episcopalians were now entitled to an exclusive University, inasmuch as the other sects had recently evinced their exclusive predilections by the establishment of Colleges adapted to the principles which they severally professed.

In such language did the highest Episcopal Dignitary in the Province and the Chief Executive Officer of the University, denounce the law under which the Institution had gone into operation, and daringly advocate its violation before the youth who had assembled under the anticipation of receiving that "complete and generous education which fits a man to perform justly, skilfully, and magnanimously all the offices both public and private, of peace and war."* Was it to be expected that the law would be honestly acted on when its execution was left in the hands of one who had thus openly avowed himself an enemy to its spirit and principles—and who had resolved, within the limited sphere to which he had at last been driven, to re-enact the deeds which had for so many years impeded the progress of the country and the moral and social advancement of its population? Was it to be tolerated that the same individual who had raised himself to the dignity which he then enjoyed by a long course of indirect persecution, and by resisting and trampling on the civil and religious rights of his fellow subjects; who had, by the "leprous distilment" of calumny and misrepresentation poisoned the ear of his Sovereign in regard to the loyalty of his countrymen—who had lived and battened on secret insinuations and charges of disaffection, should commence the public discharge of his duties in a national University by inculcating on the assembled youth disrespect and hatred of the law, and by avowing his determination to subvert its authority. If privileged insolence may thus claim protection in the possession of irresponsible power, yielded by the slavish subserviency of his satellites, the law has been robbed of that majesty which gives it its highest claim to obedience.

The spirit in which the University was opened has already exhibited the fruits which it was so well calculated to produce. The absence of Statutes for regulating and enforcing a proper discipline has given an immunity to insubordination which has been quickly appreciated by the students, and has at length made the institution an object of unqualified scorn and derision. There is not a student within the walls who is not well aware that no Statute exists under which he can be legally punished for breach of discipline. It may flatter the vanity of the Vice President to assume the affected power of issuing "dispensations," "inhibitions," and "rustications," but every youth is aware that neither legal indulgence nor legal punishment is conveyed by these empty words—and that until Statutes have been passed for regulating the studies preparatory for degrees the arbitrary inflictions of the Vice-President cannot affect his claims to University honors. The absolute failure of the series of miserable expedients by which the Vice-President has attempted to establish an exclusive personal authority ought to have convinced him, if his previous experience was insufficient, that an University must be governed on some settled principle, and not by the whims of a capricious temper. The impotent attempt to sacrifice the legal authority of the College Council to an inordinate passion for personal power has met with the fate which it merited, and would be a source of gratification, if its disastrous influence on the character of the University did not excite the most anxious apprehensions.

---

* Milton.

The Medical School,—in many respects the most important department of the University in the present position of the country,—has experienced to an alarming extent the effects of this mismanagement. In a country where the opportunities of acquiring Medical skill are so limited, it might have been expected that every means should have been adopted to render the education of practitioners easily accessible; and that in this department at least public necessity would have prevailed over senseless bigotry. But here also has the fatal influence of the Vice-President extended to blight the prospects of the country by an ignorant interference with the duties of the Medical Professors, and by the application of his exclusive principles to a department whose free operation would have conferred immediate and lasting benefit on the country.

Under the present arrangements the only real benefit which the public can derive from the establishment of the Medical School is the admission of "Occasional Students"—who may attend the lectures of the various professors, but will not be entitled to any of the honours. To entitle the Student to Medical honours he must, previous to his professional course, have taken a degree in the Faculty of Arts. The Medical Student may thus study at King's College—he may reach the exact point of receiving Medical honours with advantage to himself and to the community, and with credit to the University—but the stamp of ability and knowledge to which by his attainments he may be justly entitled, will be withheld—he must practice in a low and subordinate position, or he must expatriate himself for a time—he must go to a foreign land and ask from a foreign University that degree for which his literary and medical education may have eminently qualified him—that he may be on a level with his fellow students who have gone through the same professional course, but whose religious principles or it may be their scruples, have not prevented from taking a degree at an Episcopal University.*

---

* No part of the conduct of the Vice-President has proved his incapacity for the position which he has assumed, so much as his ignorant and injudicious interference with the management of the Medical School; and as a necessary consequence no department of the University has suffered so materially in its interests. We shall have

The mismanagement of King's College affords a melancholy illustration of the disastrous policy of placing the administration of a law in the hands of parties who have an imaginary interest in subverting it. Had the spirit and intentions of the Amended Charter been fairly acted on—and had private interest not usurped the place of public duty, notwithstanding its very obvious defects—the Charter was sufficiently wide in principle to comprehend the advantages of a liberal education; but by its gross and fatal perversion a system has been introduced neither in harmony with the free principles which prevail in the country, nor consistent with the advantages of sound academic instruction. That dispensations from the rights and ceremonies of the Episcopal Church have been granted, is no answer to the charge of a recurrence to the original system—and of a betrayal of trust in imposing on the University an essentially Episcopal character. The very existence of dispensations is in itself at once an admission of this fact, and an assertion of superiority claimed in the University on behalf of the Church by which they are granted. Is not the granting of dispensations as a matter of favour an assertion that those who receive them are only entitled to the full privileges of the University by sufferance—and does not sufferance imply something of degradation?

But under what interpretation of the Amended Charter can any one Church claim an ascendancy in the University? If the Episcopal Church has a superior right, upon what possible grounds were the amendments made? The privileges of that church were already recognised by the original Charter—was the amended law which was so strenuously resisted by the Council necessary for their further security?

It has become sufficiently obvious, that before the University can fulfil the purposes for which it was intended, the parties who have grossly perverted the law and frustrated its intentions must be removed. The necessities of the country, the peace and prosperity of its inhabitants require that the majesty of the law

---

occasion in another place—to advert to his repeated attempts to degrade the position of the medical professors—and to the gross breach of faith to which he was a party in the reduction of their salaries below the sums promised by a former Chancellor. But we allude more particularly at present to the systematic opposition which he has given to the arrangements proposed by Dr. Widmer and others, in whom the country would have gladly reposed its confidence. It was characteristic of the Vice-President that in opening the Medical School he should have taken occasion to offer vulgar incense to Dr. Widmer and the medical professors, at a time when all parties were disgusted by his interference with matters regarding which he was profoundly ignorant. The failure of the Medical School has been the result.

If it be thought that we have prematurely attacked the system of exclusion before the Statutes have been passed, we have only to say, that we have proceeded on the universal understanding in the University in regard to the admission of medical students. An application to the Bursar was made, at the commencement of the last term, on behalf of the Presbyterian body, to ascertain the conditions on which Presbyterian Students could be admitted to the privileges of the Medical School:—To this application an equivocal answer was returned, after consultation with the Vice-President, to the effect that the Statutes would be published. The fact that these Statutes were not in existence was attempted to be concealed; but the fact that they have not yet been passed proves the deplorable mismanagement under which the Institution is labouring, and by which its efficiency is impaired.

shall be vindicated by the signal punishment of the parties by whom it has been outraged. If conformity to the Episcopal Church were required by the law, there might be some reason for giving it an ascendancy in the University, as a national seminary of education. But when, on the contrary, the great majority of the inhabitants of this Province differ from that Church in doctrine, discipline and worship—when the other denominations are powerful in numbers, in influence, and in activity—embracing as they do nine-tenths of the enlightenment, the wealth and the stamina of the population—when there exists no difference in the civil rights, privileges and powers of the people on account of the religious opinions which they entertain—why should the same equality not exist in this seat of learning, by admitting all classes and denominations on the same principle of equality to a free enjoyment of its benefits in their studies, and afterwards to the reward and record of their merits in the attainment of its offices and honours. There is no monopoly of morals or good citizenship by any particular sect—why should civil privileges be confined to one denomination which only enjoys a share of the virtues that are equally diffused over all?

It is a bitter mockery to say that the various denominations of Christians are admitted *by sufferance* to enjoy the advantages of attending the lectures of learned Professors, in the prosecution of their professional education,—that *by sufferance* they may devote themselves to the acquisition of professional learning—that they may toil and labour in the prosecution of those studies which will fit them for attaining the honours that the University can bestow,—but, inasmuch as they will not submit to Episcopal discipline, they must look to the other Universities of America for conferring those titular distinctions which our own University withholds from native intelligence and learning, on account of conscientious convictions. Are the civil rights of the Canadian people thus to be gauged by the measure of their theological opinions? Are the creeds of our fellow-subjects again to revive a system of negative persecution, and to be made a matter of punishment or reward? Is the great majority of the population to be placed under a sense of personal injury and to suffer a positive evil, by which they are to be retarded in the paths of professional life? Are honours fairly won to be refused on the ground of caste? Are the people to be exposed to the feeling that they are ill treated by the laws of their country, and that they are precluded from the enjoyment of benefits which are open to others by the illegal regulations of an exclusive establishment? And are all these practical injuries to be inflicted, not only without the sanction of positive law, but in flagrant and open violation of an express legislative enactment—by parties who, having signally failed in establishing a legal orthodoxy, seek to allure neophytes to Episcopacy by hiding the iron spirit of intolerance under the mask of dispensations and favours, which they will refuse to confer the instant they can discover that there is inability to demand? If the great purposes for which the University was established have been thus grossly and unjustifiably perverted—if the law under which its Trustees were bound to act has been thus scandalously violated—will it be said that there exists no power in the Constitution to bring the guilty parties to punishment, and to reclaim the Establishment from the errors of a disgraceful prostitution?

CHAPTER VII

ADMINISTRATION OF THE ESTATE

The Chancellor having returned their appointments to the Professors under such dates as fixed the order of precedence the authority of the new Council was called into existence in October 1843. Before adverting to the proceedings which have since taken place it will be proper to give such a view of the administration of the Estate as can be obtained from the materials to which we have had access. The irregularities of the Bursar's office are not the only obstacles which exist to prevent a thorough understanding of the University affairs. A long course of maladministration has made the Council wary of furnishing details and accordingly the Returns which have been made to Parliament are studiously mystified and defective. Sufficient materials may however be obtained to establish the character of King's College as the very Paradise of Jobs even in a country where unscrupulous waste and misapplication of the public treasure have imposed scarcely any limits to cupidity and corruption.

The first general investigation which appears to have been made into the state of the University affairs, was instituted by Sir George Arthur as Chancellor in 1839. In the course of that year an accountant was appointed to examine the Bursar's Books and to report on certain alleged irregularities to which the Chancellor's attention had been directed.

It appeared that the Bursar's accounts of receipts and expenditure had been made up from loose memoranda at first monthly and afterwards quarterly—that the accounts themselves consisted merely of abstracts and that the abstracts constituted the only record of the management of the Estate. No care had been taken to test the accuracy of details by means of a balance sheet and, in fact no attempt had been made either to present the accounts in a detailed form or to show the connection of income with expenditure. The books themselves had been kept on no sort of system and no connection existed between one book and another. No rental had been kept, and no register of the tenants' leasehold lands existed. Where complaints had been made by parties who had not received credit for payments, arrangements unfavourable to the Estate had been frequently made in order to conceal the absence of system. In fact every thing appeared to be in the most hopeless confusion and evinced a degree of culpable negligence which, but for the active interference of the Chancellor would have speedily brought the Estate to ruin.

It further appeared that large sums had been withdrawn from the funds of the Institution for the private accommodation of the President at first without any authority from the Council and without any security having been given at the time; that, afterwards, notes of hand by parties in no way connected with the University, and which had been given to the President in the course of a private transaction were deposited by him with the Council as security of the loan. In connection with this transaction, and as throwing light upon the system of management which existed previous to the year 1840, a despatch from the Right Hon. C. Poulett Thomson to Lord John Russell is subjoined:—

“GOVERNMENT HOUSE, MONTREAL,
“2nd *May*, 1840.

“MY LORD,—I observe by the papers, that, on the 30th March last, Mr. Pakington took occasion in the House of Commons, to ask your Lordship certain questions in regard to the Bishops of Montreal and Toronto. With respect to the latter, he is reported to have said, that Dr. Strachan had been deprived of his salary as President of King's College in consequence of his appointment as Bishop, contrary to the agreement made with him when he accepted the Episcopal office, a proceeding which he described as cruel and unjust.

“It is evident, that if these expressions were used by Mr. Pakington, it must have proceeded from his ignorance of the circumstances under which the salary of the President of King's College was discontinued. I feel it, therefore, my duty to state these circumstances to your Lordship, as I gathered them whilst in the Upper Province, as well as to bring to your notice some others relating to the connection of the Bishop of Toronto with that establishment, which I had hitherto delayed doing, from a disinclination to enter upon transactions which I cannot consider creditable to the parties concerned.

“Your Lordship is aware that many years ago a Royal Charter was passed for the establishment of a University in Upper Canada, and that by that instrument the Archdeacon of York was appointed ex officio President.

“From various causes which have, at different times, been fully reported to your Lordship's predecessors, the institution, notwithstanding that it enjoyed a considerable endowment, was not then, nor has it been since, brought into operation. Nevertheless officers were appointed principally for the management of the Estate, and salaries were assigned to them. A salary of £250 sterling was also attributed to the President. At what period Dr. Strachan first received this salary I am unable, without reference to Upper Canada, to state; but the records of the Colonial office will supply the deficiency. From the enclosures, however, to Sir George Arthur's despatch to your Lordship, of the 5th June 1839, you will perceive that, up to that date the Bishop had continued to draw it.

“But in the course of last year an investigation having been instituted by Sir George Arthur into the management of King's College, the fact that the President was annually drawing from its funds an income of £250 sterling, was brought to his notice. Considering that no duties of any kind, beyond those of other unpaid members of the Council, were attached to the office—that there was no immediate prospect that the Institution would be put into operation—and that every shilling taken from its revenues was so much deducted from the means of education in Upper Canada, already most deficient, it appeared to him impossible any longer to permit such an appropriation of the funds. In this opinion I entirely concur, and I am confident that your Lordship will approve the course which Sir George Arthur adopted. It is indeed difficult to understand how the considerations by which he was actuated, should so long have escaped the notice of the Bishop himself.

“But the enquiry into the state of King's College, and the production of some returns called for by the Assembly, brought out other irregularities in the management of the Institution. Thus it appeared that the accounts of the Bursar were very much in arrear, and it became necessary therefore to remove him and to appoint another officer in his place; and it was also shown that a very considerable sum had been borrowed from the funds of the University by the President, for his private purposes on the security of various notes of hand, and that several of those notes had not been paid when due.

"Upon my entering on the duties of Chancellor of the University, the finances of that body naturally demanded my attention, and I was compelled to institute some enquiries respecting the accounts which were rendered to me.

"This correspondence I now enclose, and I have only to say that it was not without considerable hesitation that I could satisfy myself with only recording my opinion in the Minute to the Council which closed it, instead of proceeding to further measures.

I have, &c.

—C. POULETT THOMSON.

The Right Honourable

"Lord John Russell, &c. &c."

The enclosure referred to in the despatch was a letter to the Bursar in the following terms:—

"Toronto, *February* 15, 1840.

Sir,—Your letters of the 11th, 12th and 14th instant have been laid before the Governor General, together with the enclosure. With reference to the defalcation in the accounts of the Treasurer, and the omission to take security from that officer, his Excellency is sorry to find that no remedy now seems possible, and it is only to be hoped that the property of the late Treasurer may be found sufficient to prevent ultimate loss to the University.

With respect to the loan of money stated to have been made to the Bishop of Toronto upon the security of certain acres of land, and upon the subject of which, in addition to your remarks, a letter has been transmitted addressed to yourself by the Right Rev. Prelate, I am commanded to inform you that his Excellency the Governor General feels himself compelled to record his opinion for the information of the Council.

His Excellency wishes to abstain altogether from the consideration of the circumstances under which the loan was sought, alluded to in the letter of the Right Rev. Prelate, and upon which he had neither the desire nor the right to require any explanation. The points upon which he is called upon to express an opinion, as Chancellor of the University, are the circumstances under which the loan was made by the Council, and the action that has been taken upon the securities given.

"It appears that a loan of a considerable sum was made by the Council to one of the members of the Board; such a proceeding his Excellency cannot by any means view in the light of an ordinary money transaction. The employment of the funds of a public trust by one of the trustees for his own advantage is a proceeding which, in his opinion, is highly objectionable, and calculated to destroy the confidence of the public in the management of the University.* With regard to the second point, his Excellency regrets to be obliged to remark that a proper course has not, in his opinion, been pursued. It appears from the statement that no less than eleven notes of hand are over due, of which three have been due since the year 1837, three since 1839, and the remainder since the 24th December, 1839. In business of this kind punctuality should always be observed, but in the affairs of a public trust a scrupulous regard to it appears above all things desirable. If a note of hand be not discharged at maturity by the party first liable, the simple and ordinary course is to call upon the endorser (if any) to do so. No such steps seem to have been taken, and the signatures of these bills have been permitted to remain dishonoured—some of them for a very considerable time.

---

* In England such a transaction would be visited with severity in a Court of Equity. (*Note to the original minute.*)

I have &c.

"T. W. C. MURDOCH,

—*Chief Secretary.*

"Dr. Boys, *Bursar.*"

The last returns to Parliament of the University's affairs, were prepared in May 1843, and laid before the Legislative Assembly in October of the same year. They professed to give "a statement of the affairs of the University of King's College, and also of Upper Canada College, for the years 1839, 1840, 1841, and 1842"—but the manner in which they were prepared so successfully defeated the objects of the Legislature in calling for them—that both Houses found it necessary to appoint Committees for the purpose of making further investigations by the examination of books, papers and persons. This examination was in progress, and evidence of an extraordinary character had been elicited, when the investigation was unfortunately arrested by the proceedings which terminated the last Session. In these circumstances, our Financial statement must necessarily be very imperfect; but we are fortunately enabled to throw such light upon some parts of the statement of the College Council, as may enable the public to form a fair judgment on the merits of their administration.

		Acres.
The original endowment of King's College amounted to		225,944
Of which there have been sold up to 31st December, 1842		110,610
Leaving on hand		115,334
Of which there were on lease	95,334	
And unoccupied	20,000	

The sales were commenced in the year 1828, and their number has amounted to 308 in fifteen years. The number of acres sold has varied in different years according to the exigencies of the trust. In some years the number of acres sold did not exceed 350, while in another, and at so early a period of the trust as the year 1835, no less than 18,088 acres were disposed of. In 1829, there were 11,863, and in 1833 there were 13,568 acres sold. The average price received between the years 1828 and 1842 was 22s. 9d. per acre.

It thus appears that before the University had gone into operation, considerably more than one half of the original endowment had been disposed of. A fact so startling will naturally lead to the enquiry, under what authority did the College Council proceed in the absolute disposition of lands which had been appropriated for the purposes of education, and what extraordinary circumstances could warrant a proceeding so repugnant to the well known principles of law, and so inconsistent with the purposes for which the endowment was made?

In a legal point of view, there cannot be a doubt that every sale which has

been made is void. The Grant gives the Council no authority to sell, and the Charter is equally silent.

The administration of the endowment must, therefore, be subject to the common principles of law which govern similar foundations. Although the University of King's College may, in some respects, partake of the nature of a civil corporation—as, for instance, in respect of its Professors who have stipends annexed to their chairs *pro opera et labore*—yet the purposes for which it was established give it in some respects all the character of an eleemosynary foundation. It was instituted for the purpose of imparting assistance to its members in the prosecution of their studies; and, in the administration of its estate it is, therefore, subject to the principles of law which regulate corporations for charitable purposes.

Now, the Trustees of an eleemosynary foundation are not authorised by law to make an absolute disposition of any part of the estate. The Court cannot authorise such a disposition, and Parliament itself will not go so far. Acts of Parliament have been sometimes obtained to authorize the exchange of an estate belonging to one charity for another, but in no instance, so far as we are aware, has an act been passed for converting such estate into money.

The Court of Chancery has invariably declined to sanction a sale where the authority to sell is not given by the instrument under which the Trust is constituted. And even where an implied power may exist the Court will not interpose its sanction without sufficient proof as well that the sale is consistent with the provident Administration of the Estate as that it is rendered necessary by the situation and circumstances of the Trust.

But what possible circumstances could arise consistent with a conscientious Administration of the Estate under which the College Council was constrained to dispose of a single acre of the Endowment? The University did not go into operation for fourteen years after the grant had been made; a separate provision had been given for the erection of the necessary buildings; lands immediately available and already under lease had been exchanged for the original Endowment; an income of more than £1,000 per annum, was obtained from rents during the first year of the Trust; the annual income, notwithstanding the diminution of the Estate, had gradually increased to about £10,000—far exceeding the necessities of the Institution;—and yet, in spite of these advantages, the College Council have found it necessary to maintain their solvency by disposing of by far the most valuable portion of their Endowment, namely, the lands under Crown leases with all their valuable improvements, before a single lecture was delivered in the University.

The necessities under which the Council have suffered have not merely been of their own creation, but have been caused by a violation of Trust of the most flagrant and nefarious character. A sum of £250 per annum was given for upwards of 13 years to one of their colleagues, for the discharge of his duties as a Trustee—the same Trustee was privately accommodated with loans to a large amount—an expensive but unnecessary establishment of clerks was kept up for the benefit of the Bursar, whose subserviency has been all along purchased by pickings and perquisites—the pretext for keeping up this establishment was sanctioned by the system of sales of the Estate—the sales themselves being not only unnecessary but perpetrated in fraudulent breach of trust—and notwithstanding the ruinous diminution of the Estate the Council have little more to exhibit of the proceeds than a wretched boarding house for the accommodation of twenty-four students—an avenue—and a large amount of irrecoverable arrears of rents and instalments.

It is notorious that the manner of conducting the sales has been no less illegal than the principle upon which they were effected At various periods of the trust, a determined opposition has been given to the sale of land by various Members of the Council, who have succeeded in putting an end in open Council to a practice which has notwithstanding never ceased in the Bursar's Office A great portion of the sales has accordingly been made without authority of the Council and during the course of the last year nearly 10,000 acres were disposed of when the authority of the Council was in abeyance. The sales have at no time been made under statute of the Council as required by the Charter and indeed such have been the pressing necessities of the Council that valuable lands have been frequently disposed of at prices greatly below their real value, for the sake of an immediate instalment and no great anxiety has been exhibited in securing the balance of the purchase-money

The disbursements of King's College from the year 1828 to 31st December, 1842 were as follows:—

	£	s.	d.
Assistance given to Upper Canada College in fourteen years exclusive of interest amounted to	£40,130	4	4¼
Purchase of the Site of the University College Avenue and Grounds Improvements &c.	12,148	1	0
University Buildings, &c	9,731	10	5
Management and Incidental Expenses,	14,787	15	2¾
In all,	£76,797	11	0

In the Parliamentary Returns no details are given, from which the liabilities of the University can be ascertained It is certain however that at the date the Returns were made the obligations of the Council were considerable and under the head of "University Buildings" &c upwards of £10,000 were disbursed in the course of the year 1842. In the absence of the details, which were necessary to give any value to the accounts, it is difficult to make precise allegations of mismanagement and misapplication but we are greatly within the mark when we say that upwards of £100,000 have been disgracefully squandered out of the Endowment, before a single lecture was delivered in the University That no part of this sum has in any respect benefited the Institution, will be sufficiently obvious on an examination of the various heads of expenditure

Upper Canada College.—The origin of this Institution has been noticed in the General History of the University Its management having been placed in the hands of the College Council, it has participated, to a large extent, in the character which has attached itself to the University with which it was incorporated by the amended Charter. The minor College has been chiefly useful as a school for providing education, at a cheap rate, to the children of the higher classes. During the fourteen years in which it has been established, it has received a Parliamentary grant of £1000 sterling, per annum, and although it has also derived a considerable income from its own munificent endowment and from the fees of the Students, during the same period it has drained the University to the extent of £40,000, exclusive of interest. Although the dues had been fixed at a very low rate, yet, owing to gross negligence in their collection and a system of favouritism practised towards individuals, the sum of £6000, for dues, was given up as in arrear on 31st December, 1842. So long as the College Council have had the endowment of the University to fall back upon, the minor College has been sustained with a profusion of external means without a parallel in any school in Great Britain. The average number of pupils has for some years been about 150, of which 100 have been day pupils, and 50 boarders. The Establishment supports no fewer that 11 Masters, exclusive of visiting Teachers, giving an average of 13 pupils to each. The salaries of the Masters are as follows

Principal of U C College,	£666
Three Classical Masters, at £333 each	999
Mathematical Master	333
French Master	222
Two English Masters at £104 and £138,	322
Master of Preparatory School,	191
Matron of Boarding House,	75
Drawing Master	109

The dues for tuition are the only dues which are paid into the College funds. The Boarding Establishment is in the hands of one of the Masters, and the College Council is responsible to him for the deficiencies arising either from remissness or favouritism in the collection. The stationery used by the pupils, and the expense of keeping in repair the buildings &c., have been defrayed by the Council. The annual charges of the Establishment have amounted, for many years, to upwards of £4000 Taken on an average of the four years preceding December 1842, the dues for tuition have amounted to £1131 per annum The sum actually collected has, however fallen far short of that amount. It thus appears that independently of its own endowment and the College dues, Upper Canada College has received assistance from Parliament to the extent of £1000 and from the University to the extent of £2700 per annum. In the evidence lately given before a Parliamentary Committee by Dr McCaul who was Principal of Upper Canada College for upwards of four years, and *ex officio* a member of the College Council he admitted that if an offer of £1666 per annum, with a promise of keeping the buildings in repair and the grounds in order had been made the inducement would have been sufficient for a highly qualified Master to undertake the superintendence of Upper Canada College. The exertions which he has made however either in the capacity of Principal or as Trustee of King's College, to reduce the expenditure are unknown to the public.

and, it is believed, have not been greatly felt by either Institution. During the course of 1843, when a vacancy existed in the office of Principal, he attempted a characteristic modification of the system, which was intended to have the effect of uniting the various offices of Principal, Vice President, and Professor in his own person. This attempt failed in the manner which will be afterwards adverted to. At present, it is sufficient to mention, that in the face of repeated remonstrances to the late Sir Charles Bagot against the appointment of a Principal, on the ground of the unnecessary expenditure, and the unfitness of any of the Masters to fill the situation, in which the President of the University concurred, with an emphatic denial of the Chancellor's legal right to make the appointment, the same influence was used with Sir Charles Bagot's immediate successor to secure the office to the present Principal, whose superior qualifications, as a pliant tool, were at length discovered to be available in carrying out the intrigues of the College Council.

UNIVERSITY BUILDINGS.—No portion of the buildings necessary for the proper business of the University has yet been commenced. The buildings formerly used by the Legislature of Upper Canada having afforded temporary accommodation for Lecture-rooms, Library, &c. In pursuance of the design of reducing the endowment by the erection of Conventual Establishments for the domestication of the Students, the Council have expended the sum of £10,000 in the erection of a boarding house. This building is as yet unfinished, so that no estimate of the entire expense can at present be made. A sum of £1500 has lately been expended on a range of water-closets; yet the building, when completed, is calculated for the accommodation of only 24 Students. The Council have it in contemplation, should a speedy sale of the Endowment be effected, to continue the series of domestic establishments for the accommodation of Students and Professors, and have held out to certain members of the Council the prospect of superior private accommodation as an inducement to vote for their ends. In the mean time they will proceed to erect an Episcopal Chapel and Hall in continuation of the present building. The expense of buildings for the domestic accommodation of 100 Students may be estimated at about £50,000, or about one-half of the remainder of the Endowment. The great advantage expected to accrue from this scheme, will be the absorption of the available funds for High Church purposes, in order to frustrate any attempt to obtain a participation in the Endowment by the other Christian sects. To enable the Council to accomplish this nefarious scheme, they have lately opened up their sales, which can now be effected in the Bursar's office without the necessity of an application to the Council. Whether parties will run the risk of purchases which are void in Equity remains to be seen. There can be no doubt, however, that every purchaser will be guilty of a participation in the fraud. The building already erected is understood to have been finished under the careful superintendence of the Vice-President, and is a happy specimen of that peculiar style of architecture and internal economy which affords the least possible accommodation at the greatest possible expense. For the purpose of giving external symmetry to the building, utterly devoid of architectural grace, the upper range of apartments have been so constructed that the windows are exactly on a level with the floor—apartments of a few feet square have three of their walls constructed of cut stone, and a great portion of the interior has been deprived of all the benefit of light. The building has, on the whole, been regarded as a curious monument of the imbecility of the Council, and is a striking instance of the impropriety of placing the administration of a public estate in the hands of a few Clergymen, whose profound ignorance of business is the most venial of their errors. The erection of this building was accompanied by one of those disgraceful "Jobs," without which the Council seem to consider their schemes as altogether incomplete. For the purpose of evincing their partiality towards a favourite contractor, the tenders were not accepted till nearly three years after they were made. When the tenders were made, labour and materials were high. When the work was commenced, the price of labour had greatly fallen, and although it was known that the building could have been finished for two or three thousand pounds less than the price originally tendered, the tenders were then accepted and the contracts entered into. An architect was employed to superintend the erection of this building, and his services have been retained for an indefinite period, at a salary of £200. The labours of this individual, who may be regarded as a permanent officer of the Establishment, seem to be principally dedicated to the amusement of the Vice-President, and to the gratification of his frivolous taste with pictures and plans of buildings, for the erection of which there is, fortunately, neither necessity nor means. The other buildings upon which the funds of the University have been ridiculously squandered and misapplied, are an Episcopal Chapel and an Anatomical Theatre. The chapel was fitted up by the Vice-President when the authority of the Council was in abeyance. Although only intended for temporary accommodation, the sum of £600 was devoted to this illegal purpose. The Anatomical Theatre cost about £300, and was also erected under the superintendence of the Vice-President, whose versatile genius, "though equal to all things, for all things unfit," seems to range undismayed by its own ignorance over every department. The object of this building was to secure the domestic accommodation of the Bursar in the University, and his co-operation in the schemes of his patrons. The Theatre was otherwise wholly unnecessary, and its plan and purpose were carried into effect in opposition to the wishes of the Medical Faculty.

EXPENSES OF MANAGEMENT.—The principal feature under this head is the Bursar's Office. The statement of the annual expense of this department is as follows:—

Bursar's Salary,	£400	0	0
First Clerk,	175	0	0
Second do.	150	0	0
Extra do.	126	17	0
Messenger,	50	0	0
Sundries,	298	3	0
	£1200	0	0

This estimate was made for the years preceding 1849; the expense has since considerably increased. This Establishment has all along been a nest of petty sinecurists. The employment of Clerks has been almost solely occasioned by the illegal sales of land. Were these sales put an end to, the Establishment would at once be reduced. Although the Bursar enjoys other perquisites from his patrons in the Council, yet his salary is extravagantly large, and is amply sufficient of itself for the maintenance of the Establishment. Under the corrupt system of management, which exists perhaps to a greater extent at the present moment, than at any former period of the management, all the important business of the University is transacted in the Bursar's Office, without any consultation with the Council. The Bursar, in a private consultation with one of his patrons in the Council, may in one hour dispose of every acre of the endowment; and it is notorious that large sales have been frequently made at sums much below the value of the lands. The real power of the Bursar is virtually worthless, but it is raised into omnipotence when combined with the advice and instructions of the President and Vice-President. It is an important fact, that at various periods of the trust, the Bursar has kept private accounts between the funds of the University and certain members of the Council, which accounts have not been patent to the other Trustees. His subserviency and co-operation have been purchased by petty favours at the expense of the trust. He has been appointed Steward for the superintendance of the Hall Dinners, with a salary of £60, and for the purpose of giving him a free house to which he had no claim, the Medical Faculty has been deprived of Lecture Rooms and other accommodation in the University. Perhaps the most corrupt feature in the management is the Bursar's Office. Under colour of a pretended discretionary power, which would be illegal if it did exist, but which is at all times at the service of two members of the Council, every species of jobbing and intrigue is carried on. The entire management of the estate seems indeed to be carried on upon a system of patronage. The other expenses of management have increased to a ruinous extent since the opening of the University. The Vice-President's expensive taste for lackeys and domestic officials burdens the University with the annual sum of about £1000. The aggregate fees of the Students during the first and second Terms, amounted to about £500. This sum merely covered the amount paid to Dr Boys, as Steward, and was exclusive of attendance &c. which yield the Bursar other emoluments. The expense of keeping in repair the avenues and grounds amounts to £350 annually. When the Monastic Establishment shall be placed in operation, the maintenance of an efficient police may be expected to be a formidable item in the expenditure.

INVESTMENTS.—One of the most flagrant instances of violation of trust of which even the College Council have been guilty, occurred in their recent loan to the Cathedral Church of Toronto. The unvarnished history of this transaction is as follows:—The Churchwardens finding their resources utterly exhausted, and being without the means of raising an additional shilling on the security of the Church, applied to their friends in the College Council for an advance of £4500. Such an investment was of course illegal from the funds of a trust, but the College Council being virtually composed of Episcopalian Clergymen, the affairs of the

Cathedral were to them matters of much interest. Previous to this application the greater part of the available assets of the University had been invested in Government Debentures bearing interest at six per cent; but as the desire to bestow liberally on the Cathedral blended harmoniously with their own interests, the means of propping its declining fortunes were speedily discovered and most unscrupulously used. The requisite amount of Debentures was transferred from the archives of the University to the hands of the Churchwardens, and as the transaction was regarded as a pious accommodation to friends *legal* security was neither asked nor obtained. But the enormity of this fraudulent transaction is to be found in its connection with a collateral circumstance. *On the very day that the Debentures were transferred to the Churchwardens a negociation was opened and completed by the College Council with one of the City Banks for a loan of £4000, to meet the pressing necessities of the University.*

Income of the University.—In the Returns submitted to Parliament, the College Council have estimated their annual income, as on the 31st December, 1842 at £11,859 7s. 5d. In the particulars of Income the University is credited with the interest on Government Debentures to the amount of £28,000 but upwards of £17,000 of Debentures have since been disposed of. There can be no doubt that under a proper system of management, the Endowment would yield the sum stated, and that if the Estate still in existence could be preserved its increasing value would keep pace with the educational necessities of the country. The estimate of the Council has, however, been formed on a wilful misrepresentation of their true position. Arrears of rents have been allowed to accumulate to the amount of £16,798, and the instalments of purchase money now due amount to no less a sum than £51,747. It has been the practice of the Council to allow the purchase money to remain in the hands of purchasers as long as they pay interest, and in cases where the parties were considered sufficiently simple to submit to the imposition *usurious interest has been charged*. As the arrears of interest already amount to £18,000 some conception may be formed of the improvident management to which the *Estate* is subjected. It is, indeed, notorious that an unpaid instalment will at any time tempt the Council to sell at almost any price; and the remainder of the purchase money is transferred to the depository of arrears. The greater portion of these arrears are irrecoverable; but the Council credit their income with interest on large sums, the principal itself being irrecoverable. No attempt, however, is made to reduce the expenditure to the actual income—but an imaginary income is arranged by the Bursar and the heavy deficiencies caused by negligence and corrupt management, are filled up by fresh attacks upon the capital. The system is explained in a note to the last returns: "In providing for the annual expenses of the University we must avoid entrenching upon the portion of these receipts (of proceeds of land sold, interest, and rents) which should be reserved as capital; on the other hand, *we need not confine our expenditure to the amount of rent and interest actually received*; for, from the mode in which we sell property by instalments, the interest on which is receivable only as the instalment becomes due, and not annually upon the purchase money outstanding; we may fairly expend part of the early instalments received, in anticipation of the interest accruing on the more distant instalments, which, when they become due, yield their accumulated interest." The introduction of this rule was intended to give an air of plausibility to a system of spoliation. No attempt has ever been made by the Council to adapt their expenditure to the amount of rent and interest either already received or anticipated. The expenditure has recently borne a due reference to the available capital in the hands of the Bursar; and were the same profuse expenditure to be continued, a very few years will be sufficient to swallow up the Endowment.

The existing Constitution of the Council is in every respect favourable to the designs of certain of its Members. Owing to the absence of the Law Officers of the Crown, the management of the University has fallen into the almost uncontrolled possession of a few Clergymen, who, profoundly ignorant of their value, are recklessly disposing of lands in various parts of the Province, and are binding the Estate by contracts for buildings and imaginary improvements, to meet which no available means exist. Since all hopes of retaining exclusive possession of the Endowment have been shut out, the rashness and extravagance of the Council have known no bounds,—they have not concealed their design of impairing the Endowment before Parliamentary interference can be effected,—and there is every reason to fear that their nefarious designs may, to a certain extent, be successfully executed, unless measures are immediately adopted to put a stop to their reckless proceedings.

NOTE.—It was our intention to have carried our narrative over the proceedings of the new Council which has been formed under the Charter; but, for several reasons, we abstain from doing so at present. The short period, however, that has elapsed since the formation of this body has been sufficient to develope its true character; and, as the whole of its recent proceedings are likely to be made the subject of parliamentary investigation, we think it advisable not to anticipate the verdict of the country. When that investigation shall have been made, we feel assured that the result will warrant a Supplementary Chapter to our history.

In the mean time, it is due to the disinterested minority in the new Council to state that the profligacy of the old management has not intruded itself upon the new without a strenuous and honourable opposition. It will scarcely appear surprising that persons, some of whom had recently arrived from England, and were in no degree versant in the corrupt practices of the College Council, should have shuddered at the idea of commencing their Trusteeship with a wholesale misapplication of the revenues of an educational endowment; or that the shock which they gave to a base system of plunder should have aroused the vengeance of the perpetrators. We shall yet have occasion to declare some extraordinary circumstances in reference to these proceedings, and in particular to the secret and cowardly *misrepresentation*, by Dr. McCaul, to the Chancellor, of the manly conduct of two of his colleagues, Professors Gwynne and Croft, by whose dismissal, without a hearing, he hoped to have put an end to a high-minded opposition to his designs upon the Institution. Signal as was his discomfiture, in the refusal of the Chancellor to be made a party, the *attempt* will form a dark stain upon the early history of King's College as a literary Institution. It must be recorded that its Vice President signalized the commencement of his usurped power by an attempt to crush two of the Professors having seats in the Council, because they had dared to exercise their rights as British Freemen, in representing to the Legislature of their country that, in consequence of the Union of the Provinces and the consequent absence of four of the members of the Council, the Charter had become partially inoperative. This extraordinary Vice President, with childish impetuosity, seized the first rumour of the retirement of the late Ministry to represent to the Chancellor that such a proceeding called for the signal punishment of the petitioners, because, forsooth, it was unprecedented! Good heavens, Dr. McCaul the arbiter of our civil privileges! With what nice discrimination the shrewd wisdom of Bacon described a set of characters who seem to have ever had an owl-like propensity to frequent the seats of learning—and who, "knowing little history, either of nature or time, did out of no great quantity of matter, and infinite agitation of wit, spin cobwebs of learning, admirable for the fineness of thread and work, but of no substance or profit." If the leisure of frivolous pursuits will permit the investigation, Dr. McCaul will find abundant precedent for an Academic Petition to the Legislature even in the Institutions which he affects to admire without the ability to understand. We shall supply him with at least one remarkable instance.

On 21st March, 1834, Petitions to both Houses of the English Legislature were presented by Earl Grey and the Hon. Spring Rice respectively, from sixty-three members of the Senate of Cambridge, all of whom were members of the Established Church of England. They were signed by two Heads of Houses, by ten Professors, (among whom were some of the most eminent members of the University of Cambridge,) and by eleven Tutors of the different Colleges. In reference to the character of the parties by whom the Petition was signed, it will be sufficient to state that among the Professors, were Airy, Musgrave, Lee, Hewett, Babbage, and Sedgwick, the last of whom had the year before distinguished himself by an eloquent, and by Cambridge-men thought to be a triumphant and unanswerable defence of the character, studies, and pursuits of Cambridge. Among the Tutors were Messrs. Peacock, Bowstead, and Thirlwall—the latter one of the most eminent classical scholars in Europe. The Petitioners in fact embraced the great majority of the intellect and talent of the University. They complained generally of the system which exists at Cambridge, and which they considered inconsistent with and prejudicial to the interest of the University and to the general interests of religion. They commenced their Petition by declaring their honest and sincere attachment to the Established Church, and to the University, but that "they are impressed with a conviction that no system of civil or ecclesiastical polity was ever so devised by the wisdom of man as not to require from time to time, some modification from the external circumstances or the progress of opinion. In conformity with these sentiments, they would suggest to your Honourable House that no Corporate Body like the University of Cambridge, can exist in a free country in honour or in safety, unless its blessings be communicated to all classes as widely as is compatible with the Christian principles of its foundation." The Petitioners then proceed to state that, "among the changes which they think might be at once adopted with advantage and safety, they would suggest to your Honourable House the expediency of abrogating, by legislative enactment, every religious test exacted from members of the University before they proceed to degrees, whether of Bachelor, Master or Doctor in Arts, Law and Physic." "Your Petitioners conscientiously believe, that if the prayer of this Petition be granted, the great advantages of good academic education might be extended to many excellent men, who are now, for conscience' sake, debarred from a full participation in them, though true friends to the Institutions of the Country; and your Petitioners are convinced that this is the best way at once to promote the public good, and to strengthen the foundations of the Civil and Ecclesiastical Policy of this Realm." "The University is a body recognized by the law of England as a lay corporation invested with important civil privileges, and on that account resting on the secure foundation which is set in harmony with the moral system of the State. Your Petitioners, therefore humbly beg leave to suggest that as the legislative bodies of the United Kingdom have repealed the Test Act, and admitted Christians of all denominations to seats in Parliament, and to places of dignity and honour, they think it both impolitic and unjust that any religious Test should be exacted in the University previously to conferring the civil privileges in the degrees above enumerated." Such was the change prayed for in a Petition to the Legislature emanating from the very bosom of the University of Cambridge—from men of the highest attainments in literature and science—eminently distinguished for collegiate usefulness and University honours, all of whom were deeply pledged and deeply interested in the welfare of the University, and responsible for the due administration of its affairs; and yet a memorial by two of the Professors of King's College, Toronto, simply representing that political changes in the Province had rendered its Charter in some respects inoperative, is made the subject of a secret complaint to the Chancellor, by a weak, but arbitrary, Vice-President, who vainly imagined that he had discovered in this constitutional proceeding the source of vindictive triumph. Was utterance given to a malignant expression by the Duke of Gloucester, Chancellor of the University, when the Cambridge Petition was presented to the House of Lords? Was it thus that the same Chancellor regarded a subsequent Petition to the Legislature from some of the *Undergraduates* of Cambridge? The memorable words which the Royal Duke used on the latter occasion, should speak daggers to the breast of the Reverend John McCaul; "Young man," said his Royal Highness, to one of the Undergraduates who waited on him privately with the Petition, "I disapprove of *Undergraduates* sending Petitions to the Legislature; but I cannot refuse,—admiring as I do the religious feeling that has actuated the Bachelors and Undergraduates,—to act upon the zeal with which I am urged, and the peculiarity of the case. *I have been an Undergraduate myself, and am now your Chancellor—and I will advocate your cause, and present your Petition.*" In similar circumstances, Dr. McCaul secretly suggests to the Chancellor the dismissal of two of his colleagues, because their Petition was "unprecedented!"

If Professors Croft and Gwynne had prayed for a change in the constitution of the University, as was done in the Cambridge petition, the fears of the High Church party might have been justly alarmed; or if the matter could have been considered within the walls of the University with hopes of ultimate success, if any power had been inherent either in the Chancellor or Council to grant the prayer of the petition, a Vice-President of too narrow intellect to grasp a constitutional principle might have been pardoned for offering a remonstrance to his colleagues, on their passing over the legitimate and academic mode of attaining their object; but had he consulted the practice of those Institutions of whose internal government he seems to be absolutely ignorant, he could never have hazarded the assertion that the proceeding was "unprecedented." From the earliest times, objections have been made by members of the English Universities to the practices which prevailed at them, and charges of mismanagement have been brought in no very measured terms. In Acts of Parliament, and in Letters from the Crown, complaints have been made of their absurd regulations. The Preamble of an Act passed in the Reign of Edward VI., very justly begins with declaring "that the ancient Statutes of the Universities are obscure, unintelligible, and semi-barbarous, and that others more intelligible and fashioned more according to the condition of the times, and to the practices of the new learning have become requisite." (See Dyer's Academic Unity.) The Vice-President of King's College, Toronto, only sees in such objections an insult to the Chancellor and an "unprecedented" proceeding!

But the real ground of complaint lay in the honourable opposition given by these gentlemen to the disgraceful and ruinous system of mismanagement which has made the University of King's College a by-word in the Province. Dr. McCaul found it impossible to secure their co-operation in passing a Statute for the Vice-President's aggrandizement at the expense of the other Professors; and nothing but dismissal would atone for so serious a personal injury. An effort was privately but ineffectually made to prevail on the other members of the Council to join in this mean and miserable conspiracy; but the proposal was indignantly spurned by all, except the Bishop of Toronto, who readily shared the odium of the charge and the disgrace of its signal defeat.

During the Chancellorship of Sir Charles Bagot, a Schedule of Salaries and Duties was laid before his late Excellency by Dr. McCaul, and which was professedly framed in reference to a statement of the income of the University. In that Schedule Dr. McCaul estimated his own services, as a Professor, at £400—while the sum of £250 was attached to the office of Vice President. Sir Charles Bagot reduced the salary of Vice-President to £150, and raised that of the Professorship to £500—thus meeting in another form Dr. McCaul's own ideas of his importance. A Statute was prepared by Sir Charles Bagot in accordance with this appropriation, and transmitted to the Council. *This statute was intercepted and cancelled*—the Chancellor's severe illness having offered a favourable opportunity for defeating his intentions. On the arrival of Sir Charles Metcalfe, a new Statute was framed by the parties in Toronto, in which, taking advantage of the addition made by Sir Charles Bagot to Dr. McCaul's salary, as a

Professor, the sum stated was £300, and also taking advantage of Sir Charles Metcalfe's ignorance of the former Chancellor's arrangement of the salary of Vice President, the sum stated was £250. Will Dr McCaul hazard an explanation of the discrepancy?

But as the original Schedule of Salaries had been affectedly predicated on a severe analysis of the income, in adding £100 to one part of the expenditure, it became necessary to subtract a like amount from another, and therefore Dr. McCaul modestly and ingeniously reduced the salary of the Professor of Law to £100—being £50 less than the salary of the Junior Clerk in the Bursar's Office. Will Dr. McCaul fairly estimate the value which the public attach to the talents, attainments and efficiency of the Professor of Law and the Professor of Literature respectively?

The Statute of Sir Charles Bagot, which was clandestinely intercepted and cancelled, predicated the salaries of the Medical Professors on a view of the duties attached to the corresponding Professors in the most eminent Medical Schools in Great Britain; and in accordance therewith the late Chancellor pledged himself to these salaries when the appointments were made. The Statute transmitted to Sir Charles Metcalfe was framed with the view of adapting the expenditure to an intermediate job perpetrated by the Council, [illegible] Professor of £50, and to another of £150 yearly. Will Dr McCaul explain the circumstances attending the appointment of the Professor of Materia Medica? Will he explain the ineffectual attempt to cajole the Masters of Minor College into an approval of his conduct in a Memorial to the Chancellor with a view to the union of the offices of Vice President and Principal—his interference with the Statutes of the late Chancellor—the preparation of the present Statute and concealment of the former—his effecting the passing of a Statute to add £100 to his income, by getting the person through whose instrumentality he attempted to secure the apparent approbation of the Masters—the tool whom he all along affected to despise—foisted upon Upper Canada College, in violation of his own assurances to Sir Charles Bagot that he was unworthy of the appointment? These and many other questions of a still more serious character will assuredly have to be answered by Dr McCaul before the proper tribunal. The time has long gone past when a person in his position could be permitted with impunity to trifle with the sacred rights of the people of Canada, or to use them as commodity for his private aggrandizement.

CHAPTER VIII

THE UNIVERSITY BILL.

The introduction of a Bill, during the last Session of Parliament, for the more efficient establishment and satisfactory government of the Collegiate Institutions of Upper Canada, was hailed with all but universal delight by the country. Nor was the intensity of the gratification diminished by the consideration that a measure for the more liberal government of these Institutions had emanated from the Local Administration, and that the Bill had been framed by the Attorney-General for Upper Canada—whose enlightened principles of civil and religious freedom—perfect acquaintance with the condition of the country—and ardent sympathy with the feelings and wants of its population—afforded a guarantee for its thorough adaptation to the circumstances which had called loudly for its introduction.

The objects of the Bill were thus recited in the Preamble:—

"Whereas a University for the advancement of learning in that division of this

> Province called Upper Canada, established upon principles calculated to conciliate the confidence and secure the support of all classes and denominations of the people, would, under the blessing of Divine Providence, greatly promote the best interests—religious, moral, and intellectual—of the people at large; and whereas, with a view to supply the want of such an Institution, his late Majesty King George the Fourth was graciously pleased by Royal Charter, tested at Westminster, the 15th day of March, in the Eighth Year of his Reign, to establish a College at Toronto, under the name of King's College, with the style and privileges of an University, and afterwards to endow the same with certain of the waste lands of the Crown; and whereas, with a like view, certain other Colleges and Collegiate Institutions have since then been established, in the same division of the Province—one at the same place, under the name of "Upper Canada College," endowed also out of the public lands; one at Kingston, under the name of "The College of Regiopolis," endowed by private means alone; another at the same place, under the name of "Queen's College," or "The University at Kingston," in like manner endowed by private means alone; and another at Cobourg, under the name of "Victoria College," endowed by private means, assisted by a Parliamentary Grant—the two latter of such Colleges having likewise the style and privileges of Universities: and whereas the people of Upper Canada consist of several and various denominations of Christians, to the members of each of which, without distinction, it is desirable to extend the benefits of an University Education, and to maintain the just rights and privileges of all, without offence to the religious opinions of any, by leaving the teaching of Divinity and the education of the Clergy and Ministers of Religion to Collegiate Institutions incorporated into the University, but managed under their several Charters, in connection with the different Churches or other religious bodies as contemplated by their Founders, as declared in such Charters respectively; and whereas, by an Act of the Provincial Parliament passed in the Seventh Year of the Reign of his late Majesty King William the Fourth, the Charter of the said first-mentioned College was in certain particulars altered and amended in order, as the Preamble to the said Act recites, to meet the desire and circumstances of the Colony; and whereas, for the more complete accomplishment of these desirable objects, it is expedient to repeal the said Act, and to substitute some other provisions in lieu thereof, for the purpose of providing for the separate and more efficient exercise of the Collegiate and University functions of the said Institution; and whereas, with a view to the same objects, it is also expedient to alter and amend in several particulars certain other Acts of Parliament of this Province referring to others of the said Colleges and Collegiate Institutions respectively, to incorporate such Institutions with the said University, and to transfer to and vest in such University the sole power of conferring Degrees in the several Arts and Faculties in Upper Canada, and to make some other provisions for the efficient establishment and satisfactory government of the said University: Be it therefore enacted, &c."

It was of course to be expected that a measure subversive of the designs of the High Church party in reference to the University should meet with considerable opposition; but, singularly enough, that opposition was confined to a minority of the College Council; and with the exception of a Memorial to the Legislature by the Episcopal Bishop of Toronto, and an argument by Counsel at the Bar of the House on behalf of the Bishop and two of his clerical co-adjutors, not a murmur of dissent from the principle of the Bill proceeded from any part of the Province. And but for the singular events which abruptly terminated the Session, the Bill would unquestionably have become the law of the land.

The argument of the Hon. W. H. Draper, at the Bar of the Legislative Assembly, claims attentive consideration, not only on account of the eloquence and high legal attainments of the speaker, but as embodying all the reasons that could be effectively urged in support of the claims of the party whom he represented. It would be supererogatory to follow the learned counsel in his objections to the details of a measure no longer before the country; but as there can be no compromise of the *principle* contained in the University Bill, in whatever shape it may again be submitted to the Legislature, it may not be improper to conclude this historical sketch with an examination of those constitutional questions affecting the prerogative of the Crown and the legitimate functions and powers of the Provincial Parliament, which formed so considerable a portion of Mr. Draper's argument.

As a question of constitutional law, the jurisdiction of Parliament in reference to the University Bill must necessarily be argued on the assumption that the powers and functions of the Provincial Parliament in local matters are co-ordinate with those of the British Legislature in matters affecting British interests. For if this position be not conceded, the analogies and precedents, which Mr. Draper has drawn and adduced from British practice must fail in their application where special rules for Colonial Government exist.

Assuming then that the Canadian Legislature has been endowed with powers, or rather that there are inherent in its constitution powers, corresponding with those exercised by the Legislature of England, what analogies and precedents are furnished by British practice for the two leading propositions which Mr. Draper has laboured to establish? *First*,—"that the Legislature cannot, without infringing on the prerogative of the Crown, erect a new Corporation with University powers and privileges;" and, *second*,—"that it cannot (excepting as an act of will and power unsustained by reason or principle) deprive a Corporation of the rights and franchises which the Crown has legally granted to it, or in any way interfere with them without the consent of such Corporation."

The first of these propositions proceeds on an hypothesis—an assumed principle which Mr. Draper has not attempted to prove—that the University Bill asks the Provincial Parliament to exercise a creative power, by calling into existence a new University, with all the privileges, immunities, and rights which usually belong to such corporations. But the Bill assumes no such position. It treats the University as pre-existent and actually in operation under a Royal Charter, and it not only invades no privilege or franchise formerly granted, but it actually gives such privileges and franchises further protection and extension by adapting them to an enlarged sphere of action. The Bill involves neither the destruction of one University, nor the creation of another—it merely provides for a union of the University privileges which had been previously granted by the Crown to separate Corporations, and by the union and co-operation of powers and privileges, it attempts to infuse vigour into rival institutions, whose vitality had languished under a separation of interests. If therefore there be any privileges peculiar to Universities which it is the prerogative of the Crown alone to confer—privileges which are unknown to Statute, and independent of Parliamentary aid—their constitutional source has been simply recognised by the Bill

But no such privileges in relation to Universities are known to exist. Mr Draper has throughout his argument laboured to throw into the shade the creative power of Parliament in erecting corporations, and then by skilfully taking advantage of the obscurity in which the origin of the ancient English Universities is involved, he has attempted to draw an imaginary distinction between the corporate character of literary and of other civil corporations, for which no constitutional or legal analogy exists.

That the crown has the power to erect corporations, and to endow them with privileges and franchises is undoubtedly correct—but Mr Draper, and not the law of England, has invested the Crown with the peculiar prerogative. Lord Coke lays it down that, "corporations may commence and be established three manner of ways, viz., by prescription, by letters patent, or *by act of Parliament*."—(1 Inst. 183.) and every Institutional writer since his time has adopted the same enumeration. Mr Justice Blackstone does indeed state in the passage cited by Mr Draper, (after recognising the principle as enunciated by Lord Coke, but in terms still less favourable to an absolute or peculiar prerogative, for he scarcely requires as an ingredient the King's consent either express or implied) that "It is observable till of late years, most of those statutes which are usually cited as having created corporations, do either confirm such as have been before created by the King, as in the case of the College of Physicians erected by Charter 10 Hen. VIII, which Charter was afterwards confirmed in Parliament, or they permit the King to erect a corporation *in futuro* with such and such powers, as in the case of the Bank of England and the society of the British Fishery. So that the immediate creative act was usually performed by the King alone, in virtue of his royal prerogative."—(1 Com. 473.) But the passage as thus partially quoted by Mr Draper contains merely an historical and not a legal qualification of the principle laid down in the first part of the sentence which the learned Counsel has omitted to quote, that "By Act of Parliament of which the Royal assent is a necessary ingredient corporations may undoubtedly be created." And the reason that *till of late years* the immediate creative act was *usually* performed by the King alone in virtue of the prerogative is to be found in the circumstance that in early times the nature and limits of Parliamentary jurisdiction as applicable to an infinite variety of circumstances, had not been defined with perfect precision, and that the facility of obtaining a Royal Charter was comparatively greater than by Statute. On the other hand before the sixteenth century the prerogative was supposed to extend to every public case, and was accordingly exercised with an arbitrary disregard of those constitutional restrictions which render it wholesome to public liberty. When Blackstone wrote the powers of Parliament and the prerogatives of the Crown were both equally understood, and accordingly even that "very orthodox Judge"—as he is called by Gibbon on account of his leaning to arbitrary power—claims for Parliament the *general* exercise of the power which *till of late years* was *usually* exercised by the Crown. And since the passage was written the greater number of new Corporations have received their privileges by Parliamentary Statute, in which the "Royal assent is a necessary ingredient."

To withdraw the Universities from the ordinary operations of the law, the learned counsel finds it necessary to resort to an imaginary distinction between collegiate and other corporations. But the law admits of no such distinction among Institutions in their corporate capacity. Although in early times the Universities were considered to be ecclesiastical, they are now regarded strictly as lay corporations. (Lord Mansfield in Rex vs. University of Cambridge.) In this character they seem to partake as well of the nature of civil as eleemosynary foundations—civil in respect of their machinery and government, and eleemosynary in reference to the tenure and administration of their Estate. In a question as to their constitutional modification they must necessarily be treated as civil corporations, and in this character Mr. Draper regards them.

The learned Counsel has wisely refrained from stating the specific privileges enjoyed by Universities which should withdraw them from Parliamentary jurisdiction. That Parliament should exercise a control over their purposes and objects is at least as clear as its undoubted right to control other civil corporations: That Parliament has no power to create learning or talent may be applied with equal truth to the prerogative of the Crown; but that the power either of the Parliament or of the prerogative may foster and encourage, and give direction to associations and institutions for the promotion of learning, is a matter of every day experience and practice.

Now, the only privilege which distinguishes Universities from other literary and scientific institutions is the power with which they are endowed of conferring degrees, which, it may be said, must flow from the Crown as the fountain of honour. Assuming then that the University Bill really went the length of erecting a new corporation with University powers and privileges,—is the power of conferring degrees *ultra vires* of the Parliament?

It is very obvious that the assent of the Crown being a necessary ingredient in every legislative act—that assent obtained, the powers which would flow from the single exercise of the prerogative must form a part of the privileges which it is the intention of the legislative measure to confer. But although the power of granting degrees may be admitted to flow originally from the Crown, as by courtesy the fountain of honour, yet this power by no means forms a part of the prerogative. It may be delegated to a subject—it may proceed from foreign authority—it may spring spontaneously from, or it may be incidental to the subject matter of the institution which assumes the power. In the argument of Mr. Attorney-General Yorke, in the case of Dr. Bentley, he observed, "If the Crown erects a University, the power of conferring degrees is incident to the grant. Some old degrees the Universities have abrogated, some new they have erected." Now the general rule of law undoubtedly is, that where a subject matter is granted which has legal incidents belonging it, the incidents must follow the subject granted. The power of conferring degrees was therefore conferred on the Canadian Institution when the endowment was given and the Corporation erected by Royal Charter. No parliamentary modification, which does not by express words deprive the Institution of that power, can affect its legitimate exercise; and the University Bill leaves this privilege unimpaired.

But even in the case of the English Universities, it cannot be maintained that the power of conferring degrees has, in every instance, flowed originally from the Crown; and as the application of Mr Draper's historical argument mainly relies for its strength on the obscurity in which the ancient history of these institutions is involved, it may be proper to inquire somewhat more minutely into their origin than it would have been prudent for him to have done.

In reference to their early origin and peculiar privileges, the Universities of England can scarcely be said to have come within the ordinary operations of English law. The word itself and the thing meant were of European consuetude and growth, and accordingly some of their privileges—such as that of the Vice Chancellor's Court, which is governed by the principles of the civil law—could only be conferred, or at all events must have been confirmed by statute, inasmuch as the Crown could neither confer nor confirm privileges which were inconsistent with the principles of the common law. The privileges attached to the Universities of Oxford and Cambridge seem to have been similar to those held by the Universities of Paris, Bologna, Salamanca, Louvaine and other ancient continental Universities. Their origin took place in circumstances common to them all, and their perfect similarity in early times, raises a strong presumption that they were all created in the same manner and by the same power.

The oldest Universities in Europe arose *spontaneously* during the twelfth and thirteenth centuries, and there can be still little doubt that they were all of ecclesiastical origin. The fame of eminent teachers, such as Irnerius at Bologna, and Abelard at Paris, attracted vast crowds of learners or students to the towns where the Schools were instituted. At first the immunities which these Schools enjoyed were merely of a local kind; they sought and had occasion for few peculiar public rights. Their growing importance, and the vast concourse of Students from all countries at length made it necessary for them to be possessed of summary powers of discipline and internal government, which were readily conferred by the local authorities, and the Papal and Royal powers would appear to have soon afterwards conceded the privileges which they had in the first place acquired from more limited authority. Grants had been executed in their favour by pious and charitable persons for the purpose of maintaining Indigent Scholars, and these Grants were, with the privileges which the Universities had assumed or acquired, confirmed sometimes by Royal Charter, but more frequently by Bull. The Pope, indeed, at first arrogated to himself the right of vesting them with all their privileges; and prior to the Reformation every University in Europe conferred its degrees in all the Faculties by authority derived from a Papal Bull. But after that event the Universities assumed to themselves the power of creating degrees. The University of *Paris*, as well as those of Oxford and Cambridge, existed at first only in the lay Faculty of Arts, the

Faculties of Divinity, Canon Law, and Medicine, were afterwards assumed by themselves.

If then the Universities of England have the power of creating or abrogating degrees at pleasure, what privileges exist which it is the peculiar prerogative of the Crown to create? Their civil law jurisdiction could only be exercised under the authority of statute, for if that privilege had been conferred by the Crown alone it would have been tantamount to making new laws, which the Crown, as one branch of the Legislature, cannot do without the aid of an Act of Parliament; and again their right to the enjoyment of their property may have been, and actually was acquired by private grant or by prescription.

It is certain that the greater part of the property held by the English Universities was acquired from individuals, and in some instances the heirs of the founders, notwithstanding their Royal confirmation, still possess a visitorial power by virtue of the common law. Both at Oxford and Cambridge these establishments originally consisted of two distinct foundations—the University proper and the Colleges. The former was regarded as founded and privileged by public authority for the general benefit, while the latter were founded and privileged by private munificence for the interest of certain favoured individuals. The University proper existed prior to the Colleges, the former having been instituted for the purposes of education, and the latter principally for aliment and habitation. At Oxford and Cambridge at present the Universities may be said to be in abeyance, or at least to exist only through the Colleges; and this fact has afforded ground for argument to the High Church party in England against the admission of Dissenters, that the Colleges being foundations private to their incorporate members, the Legislature cannot deprive them of their right of optional exclusion without a subversion of the constitution. But as admission to the Universities cannot be obtained without a previous entrance into one of the Colleges, the dethronement of the Universities and the usurpation of the Colleges have both been accomplished through an illegal suspension of some of the University privileges.*

---

* The peculiar constitution of the English Universities it is very important to keep in view, when an attempt is made to draw analogies unfavourable to parliamentary jurisdiction over the University of King's College in Canada. In an elaborate defence of Oxford its privileges are thus stated:—There are, moreover, some points in the constitution of this place, which are carefully left out of sight by our revilers, but which ought to be known and well considered before any comparison is made between what we are and what we ought to be. THE UNIVERSITY OF OXFORD IS NOT A NATIONAL INSTITUTION. It is a congeries of foundations, and of gifts, some of Royal munificence, *but more of private piety and bounty*. They are moulded indeed into one corporation; but each one of our twenty Colleges is a corporation by itself, and has its own peculiar statutes, not only regulating its internal affairs, but confining its benefits by a great variety of limitations.

The argument used by the High Church party in England, will however operate powerfully against that urged by Mr Draper in Canada. In England the jurisdiction of Parliament over the Universities has never been denied—its moral right to interfere with the Colleges which are private foundations has been questioned; and although a Bill for the admission of Dissenters has been passed in the House of Commons by a

That the English Universities have received Charters from the Crown, may be admitted, without vainly ascribing the foundation of Oxford to Alfred, or of Cambridge to an earlier Prince, as has been done by their respective partisans.* Edward I., we are aware, gave a Charter to the Universities, but this was merely a recital and confirmation of the Deeds of foundation previously given by private persons—who, notwithstanding the King's Charter, retained their visitorial powers as founders under the common law.

The power, indeed, which the Crown appears to have exercised in former times over the Universities was very considerable, and it certainly has not been sanctioned by constitutional authorities. In 1549 Edward VI. sent down by commission several visitors to Cambridge to alter and reform the statutes of some of the Colleges. This commission was issued, however, not upon the King's general visitorial power which he exercises by virtue of the common law over charitable foundations where no special visitor has been appointed by the founder, or where the right of visitation, in default of heirs, devolves upon the King, to be exercised by the Great Seal,—but proceeded strictly and was derived from his newly acquired spiritual jurisdiction established on the ruins of the papal authority in England. The power of visitation conferred on the Crown by 25 Henry VIII. was also purely of an ecclesiastical nature, and indeed was a mere transference of the power that had been claimed and exercised before that time by the Pope as Head of the Church. In those times Universities were considered to be ecclesiastical foundations; but both the doctrine and the power have since been exploded. The interference of Charles II. by Letters Missive was an act of arbitrary dispensation which cannot be supported at the present day.

When a proposal was made by William III. of a Royal visitation, Lord Chief Justice Holt denied the right of the Crown to interfere, and Lord Chief Justice Wilmot expressed an opinion at once adverse to the right of the Crown and favorable to Parliamentary jurisdiction. "I have long been a warm advocate for our Universities," said Lord Chief Justice Wilmot, "and *for that reason*, perhaps, have been too rigid and severe a disciplinarian; for their existence depends upon the activity and honour of the tutors and heads of houses, and whenever there was

---

large majority; yet, independently of other obstacles, the reluctance of the British Legislature to interfere with rights and privileges privately acquired may readily account for its temporary defeat in the House of Lords. But in Canada the Endowment and the University are undoubtedly public, and may therefore properly be made the subject of legislation.

* The origin of the English Universities, as traced by the profound research of Mr. Hallam, would appear to be invested with even a deeper shade than that with which antiquity generally enshrouds the early history of literary institutions. "The earliest authentic mention of Cambridge as a place of learning, as I must acknowledge, is in Matthew Paris, who informs us that in 1209, John having caused three Clerks of Oxford to be hanged on suspicion of murder, the whole body of scholars left that city, and emigrated, some to Cambridge, some to Reading, in order to carry on their studies. But it may be conjectured, with some probability, that they were led to a town so distant as Cambridge by the previous establishment of academical instruction in that place. The incorporation of Cambridge was in 1231 (15 Henry III.) so that there is no great difference in the legal antiquity of our two Universities."—*Hallam's Middle Ages*, Chap. 9, Part 2.

a total relaxation of discipline, if they either do not take care to know, or whenever they connive at abuses, *the Parliament must and ought to take the reformation of them in their own hands*, and attempt to rescue the rising generation from vice and ignorance by some new system of academical government." Lord Mansfield, in the very case from which Mr Draper has quoted, admits that "the Crown did formerly exercise a power over the Universities which cannot be supported by any sound principles of law."—(Rex v. University of Cambridge.)

Over all corporate property the Legislature has always exercised a high and special trusteeship; and the prerogative of the Crown is at the same time clearly defined by the common law as consisting in a visitorial power to see whether in the lapse of time the intentions of the founders have not been frustrated. Parliament and the Crown are alike entrusted with the power of erecting Corporations and giving them Charters, the only difference in the practice being in the change effected by the Revolution—that where the power of the Crown was formerly supposed to be sufficient of itself to meet all cases, the Royal authority must in certain circumstances be exercised legally and constitutionally through the medium of both Houses of the Legislature. There can be as little doubt of the power of the Crown, thus constitutionally exercised, to erect and found new Corporations, whether Universities or other civil foundations, as there can be of its constitutional exercise in the abrogation of such laws as have become unnecessary or inexpedient. But whenever a Charter has been confirmed or altered by the Legislature, whether that Charter was originally public or private, the power of the Crown alone is insufficient for its further modification; and hence the dictum of Lord Mansfield, referring to certain new grants which had been made by Queen Elizabeth to the University of Cambridge, subsequent to a Parliamentary interference, and which Mr Draper has twisted and triumphantly quoted for another purpose—that "the validity of these new Charters must turn upon the acceptance of the University." That learned Judge, indeed, lays it down that the Crown alone cannot take away their rights or give them Statutes or Charters without their own voluntary acceptance,—as was the case between Charles I. and the University of Oxford;—but it may be doubted, notwithstanding the dictum of Lord Mansfield, whether the voluntary acceptance of new Charters by the Universities would not be illegal, and would not be tantamount to an alienation, which could only be effected by the aid of a Parliamentary Statute.

If however we are sent back to ancient usages—if we are referred to the wisdom and acts of our ancestors—we cannot doubt on historical grounds that Parliament has not only exercised the full and absolute power of interfering by legislative enactment with the practice and regulations of the Universities, but that the Universities of England are in fact great National Institutions, supported and maintained by acts of the Legislature—that their Charters, privileges and rights are secured by Acts of Parliament—that some of their highest advantages have been conferred on them by the same means—and that the most important right which they legally enjoy—the right of possessing that which formerly belonged to the Catholics—has been conferred by the very instrumentality which the Advocate of "the chartered rights" of King's College repudiates and condemns. In the reigns of Henry VIII., Edward VI., Mary, and Elizabeth, enquiries took place into the condition of the Universities by commission, and the result of each of the commissions was the alteration, by Parliamentary Statutes, of the regulations and proceedings of the Colleges constituting the Universities. The Statute passed in 13th Elizabeth, upon which Mr. Draper has laid considerable stress as having been "framed by the authority of the Crown and probably introduced by the Ministers," was in fact the result of one of those commissions, and besides embodying the spirit of the *Statuta Antiqua*, or bye-laws of the Universities, and of the various Acts of Parliament of the Reigns of Henry VIII., Edward VI., and Mary, which have always been regarded as the ancient constitution of the Universities, was also designed to effect various important alterations in their constitution, and was framed not merely with the view of protecting the government, but also of regulating the appropriation of the revenues of the several Colleges. But whether it was "framed by the authority of the Crown," or "introduced by the Ministers," will probably little affect its validity at the present day.

The argument of the learned Counsel as applied to the Irish and Scottish Universities, is equally destitute of legal and historical accuracy. He has passed over Trinity College, Dublin, with the brief observation that it received its Charter from Elizabeth; but had he enquired further into the history of that Institution he would have discovered that it was pregnant with analogies and precedents for the modifications proposed by the University Bill. Passing over its early history,—even so recently as 1785 an Act of Parliament was passed to *establish* in Trinity College three additional professorships. And in 1793, an Act was framed by Mr. Pitt and was passed by the Irish Parliament for the purpose of modifying the University to an extent which was decried as subverting its "Chartered Rights," and undermining its ancient constitution.

By ancient Statutes the Dissenters were admitted into the University of Dublin without religious tests, but the Roman Catholics had been all along excluded from the offices and honours. Mr. Pitt's Bill was intended to afford the Catholics considerable relief, and merely excluded them from the offices of Provost and Fellow. Two or three Catholics were accordingly, soon after the passing of the Act, admitted to Scholarships; but as the Statute did not in express words take away the oaths of supremacy and the declaration against the invocation of Saints, the Fellows have thought fit to enforce their being taken and subscribed on admission to Scholarship, and have thus prevented the Catholics from aspiring to that honour. The Statute was however passed by a Parliament of which the Provost was a member, and the Representatives of the College were acquiescing parties. So far indeed as the University itself was concerned there was but one objection and no opposition,—and that objection was made neither to the jurisdiction nor moral right of Parliament to legislate, but it was contended by the party who urged it that no Roman Catholic should in future be excluded from any of the offices or honours. The amendment was proposed by John Claudius Beresford

—a name of dreadful familiarity to Roman Catholic ears—and in the speech which he delivered on the occasion, he is reported to have said:—"God forbid that I should ever see the pious intentions of the Royal Founders of the University frustrated by any perversion of the privileges or revenues thereof. If it be determined to open the Universities to Catholics, let the British Minister first procure an Act of Parliament to open the English Universities, and then the bitter potion may be more readily swallowed by the infatuated and betrayed protestants of Ireland."

Mr. Draper has omitted any reference to the Roman Catholic College at Maynooth, which was founded in 1795, *exclusively by an Act of Parliament*.

Nor is the learned Counsel more fortunate in his reference to the Scottish Universities. The University of St. Andrew's was founded by Henry Wardlaw, Bishop of the Diocese, in 1411, and was confirmed by Papal Bull in 1413. The College of St. Salvator was founded by Bishop Kennedy, in 1456; that of St. Mary, by Archbishop James Beaton, in 1537, and that of St. Leonard, in 1512. In 1747, the Colleges of St. Salvator and St. Leonard were united by Act of Parliament.*

The University of Glasgow was established in 1450, by Bull issued by Pope Nicholas V., and, it is worthy of remark, issued at the request of James II. More than one Act of Parliament has been passed in reference to this University.†

King's College, Old Aberdeen, was founded in 1494, by Bishop Elphinston, Lord Chancellor of Scotland in the Reign of James III., and Lord Privy Seal in that of James IV. The King afterwards claimed the patronage of the College. Marischal College, New Aberdeen, was founded after the establishment of Protestantism in Scotland, by William Earl of Marischal, and its deed of foundation was confirmed by Act of Parliament within three months after its execution.‡

The University of Edinburgh was founded by the citizens who obtained a license

from James VI. for founding a College within the city. In 1621 an Act of Parliament was passed, ratifying its various grants, and among other things *authorising the University to confer Degrees*.*

---

* "The University of St. Andrew's," says Malden, "was founded by Henry Wardlaw, Bishop of the Diocese, in 1411. The King James I. of Scotland, the Bishop, and the Heads of the Augustinian Priory at St. Andrew's requested the Papal sanction, and accordingly a Bull was issued in 1413, by Benedict XIII., by which it was made a University and a general study for all the Faculties. It received other benefactions from the Church, which were ratified by the King in 1432, and he, at the same time, granted to all its members an exemption from taxes—a privilege confirmed by his successors."

† "The University of Glasgow was established in 1450, by a Bull of Pope Nicholas V., issued at the request of James II.—Authority was given for the institution of the general study of all Faculties, and the University was empowered to grant Degrees, which should be valid throughout Christendom. In 1453 a Royal Charter was granted by James II., with an exemption from taxes and all civil burthens."—*Ibid.*

‡ "Marischal College, in New Aberdeen, which claims to be a separate University, was founded in 1593. The Founder, William Earl of Marischal, directed the Principal to confer the Degree of Master of Arts upon Students who deserved it; and, as the deed of foundation has been confirmed by more than one Act of Parliament, the College is an authorised University."—*Ibid.*

Mr Draper's reference to the Scottish Universities thus completely fails. Not one of these Institutions owed its foundation to Royal Charter, but they were all founded and created by private grant, by Papal Bull, or by Act of Parliament. All the Scottish Universities were re-modelled under the auspices of Buchanan at the time of the Reformation, so as to adapt them to the immediate wants of the community. In the course of the last century Faculties of Medicine and Law have developed themselves; and in 1826-27 a commission of inquiry was set on foot, the result of which has been the adoption of many practical reforms and useful alterations in these establishments.†

---

* In 1581 the citizens of Edinburgh obtained a license from James VI. for founding a College within the city; and in 1582, aided by various donations, they procured a suitable site for it. The Provost and Town Council were empowered to repair and build houses for the reception and habitation of Professors. The Town Council proceeded to act upon this license, and opened an academy at first under a single Regent, augmenting the number of teachers from time to time according to the increase in the number of Students. In 1584, the King granted property, not to the College, but to the Magistrates and Town Council, for the benefit of the College; and in 1612 he gave a Charter confirming all that they had done. In 1621 an Act of Parliament was passed ratifying the Royal Endowments, and the erection of the College as a College for the profession of theology, philosophy, and humanity; and granting in favour of the burgh of Edinburgh, patron of the said College, and of the regents and students in the same, *all the liberties and privileges pertaining to any College within the realm*. On this authority it is that the University confers Degrees. The College is in every respect subject to the Magistrates and Town Council of Edinburgh. No constitution was given to it like those of other Universities. The Town Council are the absolute patrons of the Professorships of their own foundation, and of the office of Principal. The College consists at present of twenty-six Professors, of whom twelve are appointed by the Town-Council and eight are appointed by the Crown. The Professor of Botany holds commissions under both. The remaining five are of a mixed nature, but the Town Council has a voice in all. The Senatus Academicus consists of the Principal and all the Professors. This body is not legally constituted by any of the original deeds, but takes upon itself to act only by usage. By the entire subjection of the University of Edinburgh to the Town Council, the Professors are relieved from all care of the financial concerns, and of the lands and buildings. It might be supposed antecedently to experience that such matters would not be well managed by bodies of literary men; and the experience of the other Universities, developed in the Report of the Royal Commission of Inquiry into the state of the Universities of Scotland, amply confirms the supposition. The Council not only fill up the vacant chairs, and thus preserve the University from the abuses of a self-elected corporation, but it can at any time institute any new professorship which it thinks to be for the advantage of science and general education; nor can the existing Professors maintain any monopoly of teaching, or close their society against new members. The Council has the discretion to leave all matters of discipline and ordinary detail to the Principal and Professors, while by its superintending power it can check any such practices as self-governed corporations are apt to fall into, tending to the present benefits of the individual members rather than to the permanent benefit of the whole body.

† The Scottish Commissioners were empowered to inquire into the mode of granting Degrees and of teaching, and were directed to look narrowly into the revenues of the said Universities and the management thereof. Nor did the Scottish Commissioners protect the donations of pious founders. It was one of the

The reference to the University of Durham and the London University, is not strictly applicable. These Universities are privileged by Royal Charter, but it is inaccurate to say that from this source they derive their existence. Both Universities are strictly private foundations, and on account of the tolerant principles upon which they were established—they were assailed with rancorous virulence by the Academic pulpits. The characters and motives of their founders were maligned and their objects misrepresented in every shape that High Church ingenuity could devise; and with the determined and cordial opposition of the Bishops, the passing of an Act for their Incorporation would have been a hopeless attempt. But the reference to these Universities neither strengthens the one case nor weakens the other. That the Crown has power to incorporate a University, or other civil Institution, may be admitted without admitting an infringement on the right of Parliament to do the same.

In the two instances cited by Mr Draper from Canadian experience, unwarrantable inferences have been drawn from the facts. He says—"The University of Queen's College at Kingston is founded by Royal Charter, the Act of the Legislature erecting it having been disallowed." But the Act of the Legislature was disallowed *on the application of the Trustees of Queen's College* which is strictly a private foundation,—not for the purpose of changing its constitution or powers—not because it had been discovered that Parliament had no right to legislate—but in order that the University might undergo a change in its name and that it might occupy a place in public estimation not inferior to the exclusive University of King's College from the privileges of which the Presbyterians had been unjustly debarred. Upper Canada Academy, now Victoria College, was incorporated by Royal Charter in 1836, and was afterwards *by Act of the Colonial Legislature* erected into a College with University privileges and powers. The application for a Royal Charter in the first instance, was occasioned, not by any doubts of the powers and functions of the Canadian Parliament, but solely by local circumstances which shut out for a time every reasonable prospect of obtaining an Act of Incorporation; and Lord Glenelg, then Colonial Secretary, acting under the advice of English Counsel, hesitated as to the propriety of a Royal Charter on the ground that "the Crown ought not to create any Corporation in the Colony that it was competent to the Legislature to create." The Charter for the incorporation of the Academy was only obtained after assurance had been given to the Colonial Secretary that the Institution was in harmony with the views of the House of Assembly.

If then the question of University Reform depends upon historical and legal precedent, the Canadian Legislature can scarcely hesitate to exercise those powers which have been constitutionally vested in the respective Parliaments of England, of Ireland, and of Scotland, which exist in supreme majesty in the Parliament of

---

subjects of special interest that an enquiry should be made into the ancient donations or mortifications, as they are called in the Scotch Law. The Commissioners had also power to enquire into elections; and power was given them to frame a Code of Laws and Regulations for all the Universities.

the United Kingdom of Great Britain and Ireland, and which have been expressly recognised by the Imperial Government, as existing in the Colonial Legislature, with the fullest application to the establishment in question.

It surely cannot admit of doubt that a power must exist in the constitution to adapt laws to the ever varying wants and circumstances which the moral and physical elements of which society is composed are ever producing. If it be beyond the power of the Crown to interfere with an institution which has already been made the subject of parliamentary legislation, are its defects, its corruptions, and injurious tendencies at once to receive constitutional protection, and to escape from constitutional control? As there is a moral duty, so there is an inherent power on the part of a government to make the laws of a country conducive to the happiness of its inhabitants, and no law can be properly maintained either after its object has ceased to exist, or after it has become positively injurious. As society is progressive, so the laws which govern it must be adapted to the changes to which it is exposed.

The right of parliamentary legislation over every other branch of the constitution is recognised and proved in every page of the history of England. The attempt would scarcely succeed at the present day to set up divine right, legitimacy, and prescription against the necessities which new interests and new opinions have created. If the acknowledgment was wrung from Charles I. that "the King's prerogative is but to defend the people's liberties," it is scarcely to be denied that the people, through their representatives, are the proper judges whether it should be restrained when it proves hurtful. "My Lords," said Holborne in his noble defence of Hampden, "whatever estate is in the king in the politic capacity, is in him as *rex*, and not in him in his natural capacity, and what is in him so is for the benefit of the kingdom."

But how idle it must be to argue the constitutional right of parliamentary control over a civil corporation in a country which has received a transcript of the British Constitution, and among a people who inherit from their fathers the noble legacy of England's history and laws. We have but to point to the maxim on which the succession to the Throne of England depends to find that "the right of inheritance thereto may from time to time be changed or limited by Act of Parliament" (1 *Black.* 191), and to the instances in which that right has been exercised, to be satisfied that when a moral necessity for change may arise, the power to effect it will be found to exist in the Legislature.

"A legislative Act," said Mr. Burke, in his argument on the Middlesex election, on the occasion of the expulsion of Mr. Wilkes from the House of Commons by a simple resolution, "a legislative Act has no reference to any rule but these two—original justice and discretionary application. Therefore it can give rights, rights where no rights existed before, and it can take away rights where they were before established. For the law that binds all others, does not and cannot bind the law maker; he and he alone is above the law." The ultimate power and jurisdiction being thus ascertained to exist in the Parliament, it would be difficult to discover any higher or stronger obligation on the consciences of legislators than the consideration of the public benefit, and therefore in reference to the modifications of a public endowment, the questions that require to be satisfactorily answered, previous to parliamentary interference, are simply,—Is the present system expedient? and have the Trustees discharged their trust with fidelity?

The real question then before the people of Canada is the expediency—the moral necessity of a change in the present system. And if at a particular period of the history of Canada, when an Episcopal ascendancy was paramount in the Councils of the country, it was deemed expedient to appropriate and set apart a magnificent endowment for educational purposes, and to place that endowment and the direction of education exclusively under Episcopal control, will it be maintained, when the country has, from a diversity of causes, become divided into many religious communities, each community being in the enjoyment of perfect equality in civil and religious privileges, that every advantage from the endowment shall be confined to the Episcopal members of the community, who now form one of the least of the variety of sections—that the privileges attached to the University must be perpetuated for the sole benefit of the original class, and that new aspirants to civil privileges are to be refused a partnership in public rights, either on the ground that their interests were not at one period contemplated and recognised, or that the monopolists refuse their consent to a participation? If the University was intended to be a National Institution, can we look at the numbers, the rank, the wealth, the character and intelligence of those who are excluded under the present illegal system, and say that it is *expedient* to deprive so large and influential a portion of the community of the benefits of a University education—that it is just or expedient to expose them to the feeling that they are ill used by the laws of their country by being precluded from the enjoyment of benefits which are open to others by the illegal regulations of any particular Establishment? What is the principle involved but the right of every man to religious freedom and liberty of conscience—a right which none dare publicly to controvert, but which the Trustees of King's College have dared to infringe by a secret violation of the law? Is it not enough to prove that the Institution only accomplishes a small part of the purposes for which it was established by law, to shew the propriety and necessity of giving it more enlarged and national usefulness? And is it of no importance to the interests of the country that persons differing in their religious opinions, but agreeing on other subjects, should not be estranged from each other on the ground of creed—that instead of imbibing those principles of tolerance and those feelings of Christian charity which a joint system of education would produce, a spirit of hostility should be engendered, by the influence of which they must become more estranged from each other in their literary and scientific pursuits? Can it be expected that the youth who have been confined, during the progress of their education, in the choice of their associates, to a particular Church, will be easily brought to believe, in their riper years, that the Christian virtues and graces flourish and are equally diffused among Christians of all denominations? But on the other hand, by a combined system of education—by the ties of affection and good will which would be fostered, even the intolerant denunciations of their respective Churches, which are the relics of other ages when parties were brought into collision in the struggle for their civil rights and for religious ascendancy, would lose all the power which they would otherwise have in perpetuating that negative species of persecution, which robs social life of its cordialities, and invests a public career with half its animosity and bitterness.

Nor will any remedy less solemn than a declaration by Parliament of the equal rights of all denominations to a full participation in the advantages of the Institution, meet the exigency of the case, or restore public confidence in the Institution, or satisfy the country. Were the Amended Charter complete in its details, and were the complaint confined to a mere perversion of trust, the remedy—whether consisting in the restoration of the trust purposes or in the punishment or removal of the Trustees—might be found in an inferior judicatory. But it must be recollected that the law—notwithstanding its recognition of the principle of equality—was conceded and framed by the party favourable to exclusion, and at a political crisis when the best friends of education were unrepresented in the Legislature, and that its gross and glaring defects are such as to render it in many respects useless and inoperative. The law must be so framed as to prevent a corrupt administration—and when badly administered, it becomes the duty of Parliament to remedy those defects, which have exposed it to perversion. The principle of equality, as already recognised, must be guarded by practical and efficacious rules and checks to secure its healthy operation. And it is no less the duty of the Legislature to watch, with a vigilant eye, the spirit of the age, and adapt its measures to the changes produced by time, than to exercise a strict surveillance over the administration of the laws, so as to protect their principles from corruption or perversion. Nor does the existence of a subordinate judicatory for enforcing the proper administration of the laws, deprive the Parliament of its judicial adaptation to the least as well as the greatest objects. Its powers and functions, as the supreme tribunal in the State, are applicable in all circumstances, whether in declaring the meaning of the law with greater precision, or in correcting those mistakes which have occasioned either misconception of intention or corrupt administration.

The argument of the learned counsel assumes that the Bill "proposes to interfere with and take away privileges, liberties, and franchises, which the Crown has solemnly granted under the great seal of the Empire." But what "privilege, liberty or franchise" was enjoyed by the University which was not largely extended by the Bill? No part of the corporation was changed but its name—and what is more common than for a corporation to change its name and retain its powers, rights and privileges? The objects and purposes and subject matter of the corporation remained the same, but an extension of its advantages was proposed by the modification and adjustment of its machinery. It is absurd to talk of disfranchising a corporation, when every end of its existence is clearly recognised, and every power which it holds is legally maintained.

Now, the UNIVERSITY, as a corporation, was preserved in all its integrity, and in the unimpaired possession of its "privileges, liberties, and franchises." The other Colleges asked for no separate lands, no distinct franchises—they did not even aspire to participation in University privileges, for they surrendered those which they held—they asked no extension of their charters—no new powers which were adverse to the rights already established—all that they asked, and all that the Bill proposed to give them, was, that their students might have the privilege of attending the Lectures in Arts and Sciences established out of a public endowment, and that that endowment might be so administered that such privilege should be enjoyed without offence to their conscientious convictions. The separate Colleges in the Universities of England have been endowed and privileged by private individuals. Surely that which has been done legally in England by the piety or munificence of individuals, may be constitutionally accomplished in Canada, without stretching to an undue degree the jurisdiction of the Parliament.

But the argument of disfranchisement can be maintained with little either of grace or effect by the person who framed and introduced the amended law, which recognised to the fullest extent the very principle which it is the object of the present Bill to reduce more thoroughly to practice. By the introduction of the Amended Charter, Mr. Draper, as a legislator, gave his solemn sanction and personal approval of the principle which Mr. Draper, as of Counsel for the Trustees of King's College, afterwards called upon the Commons of Canada in the name of their God, their Queen, and their Country, to condemn. Was not the sole object of the Amended Charter to deprive the Episcopal Church of the *exclusive enjoyment* of University "privileges, liberties, and franchises?" Did it not expressly recognise the equal rights of all denominations of Trinitarian Christians to an unconditional participation in those privileges, liberties, and franchises? and have not the Trustees of King's College fraudulently disfranchised the people of Canada of the "privileges, liberties and franchises" which Mr. Draper's own Statute conferred upon them? And moreover, did not Mr. Draper's Amended Statute to the fullest extent recognise the power and jurisdiction which as an advocate he affects to repudiate? True it is that the Crown gave its sanction to the amendments—true it is that the Crown "*invited* the attention of the Legislature to the improvement of the Charter." But will the invitation of the Crown invest the Legislature with power and jurisdiction which are not inherent in its constitution? Must the validity of Acts of Parliament be tested by dragging from grim and musty obscurity uncertain evidence of their having been "framed by the Crown," or of having been "probably introduced by the Ministers"—or if the invitation of the Crown invests the Parliament with its "omnipotence," is the Despatch of a Colonial Secretary to work the charm which the Bill of an Attorney General is impotent to produce?

But in what character do the Council of King's College appear at the Bar of

the Legislature to protest against a measure for the modification of a public endowment? If the Council of King's College have been invested with franchises, they are of a public nature, and they as well as the endowment to which they are attached, are held in trust for the benefit of the whole community. There is an obvious distinction between private property vested in individuals as such, and property vested in individuals in the character of public Trustees, and therefore held by them only for the public benefit. There can be no claim on behalf of these Trustees in their own persons, for the University was erected into a Corporation purely for public purposes. Now a Corporation is an ideal being—a legal fiction—an incorporeal shadow endowed with vitality and power solely by the creation of the law for the purpose of holding rights in trust for the public interest. If any of its Trustees are in the enjoyment of a life rent, there is to that extent a personal right, but otherwise there is simply a Trust which must be held and exercised for the public benefit.

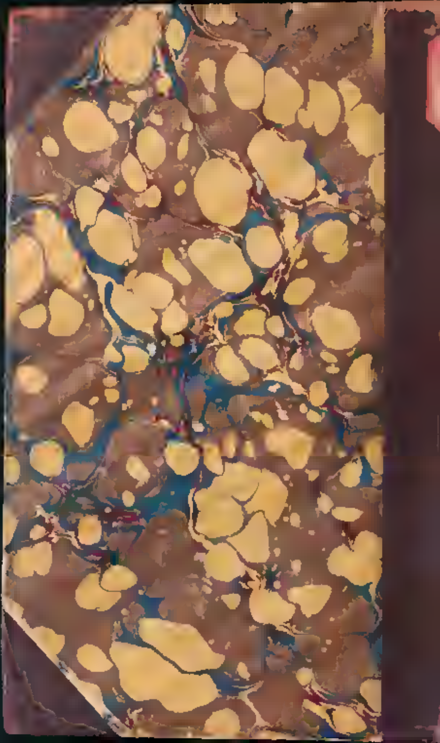
But as all Trusteeship pre-supposes confidence between the parties, when that confidence is lost, the office of Trustee may be recalled. For the Trustee can have no personal interest in the [illegible] or duration of his office, and therefore the interest is solely in the parties for whose benefit it is held. In the present instance the beneficiary right is vested in the public, who must therefore be possessed of the power to remove their Trustees. The resumption of the endowment would in fact be nothing more than the removal of the Trustees, even were that endowment to be applied to other than Academical purposes.

The distinction between the right to private property vested in individuals either personally or as Trustees (or as in the case of the Collegiate Institutions of Lower Canada, which are expressly endowed, not for national but for Roman Catholic purposes, and in that character are guaranteed by the faith of the Empire) and property vested in individuals in the character of public Trustees will always be recognised by the Legislature. Parliament has the power—and it occasionally exercises the right of interference with either; but on private property it will seldom legislate, unless where its existence or purposes are positively injurious—or when it is taken collectively, as in case of Parliamentary taxation—while over public and corporate property it exercises a special trusteeship as to its management and direction. And if it be convenient for the Parliament to recall or limit a public trust, are the Trustees to be entitled to say that they ought to keep it for their own purposes? Is a public reformation not to be accomplished without bringing certain Trustees into connivance? Or does it follow that the Parliament are necessarily doing violence to adverse claims and titles, simply because certain Trustees have not come voluntarily forward to surrender a public trust which they have scandalously perverted?

The learned Counsel must have internally smiled at the idea of alarming the fears of the Legislature with an argument which he would not have ventured to use in a far inferior Judicatory. If the obstinate resistance of the corrupt Council of King's College is to impede the progress of Parliamentary legislation, what ought to have been the effect of a remonstrance from the ancient Burghs of Sarum and

Gatton on the course of English Parliamentary Reform? And if a Parliament could be found base enough to disregard the protest of the Brethern of Laud against all acts passed in their absence as being the acts of a Parliament no longer free, what amount of temerity will resist "the Memorial of John, by Divine Permission, Bishop of Toronto"?—Alas! we fear such is the arbitrary power now vested in and exercised by our Parliaments that the validity of their acts will scarcely admit of a question, even though the whole Bench of Bishops should record their dissent—or even, as in the case of the Act of Uniformity, the very name of the Lords Spiritual should be dropped from every part of the Bill. If the only opponents of a legislative measure are the unfaithful stewards who have betrayed their trust what better argument could there exist for the legal and moral necessity of a change!

The betrayal of trust and subversion of the law by the College Council, deprive Mr. Draper's argument of even the appearance of plausibility. The contest is not one between the people of Canada and the vested rights of the College Council—but between a corrupt Council and the vested rights of the people. All those "privileges, rights and franchises," for which Mr Draper has so eloquently contended, were vested in the community; the College Council have, in violation of the law, perverted them to private purposes, and have had the effrontery to appear at the Bar of the Commons in defence of a contraband traffic with a public endowment. Those who talk of vested rights being invaded or infringed by the University Bill should look at the original grant—its fraudulent appropriation—the deceptions practised in obtaining the Charter—the long and arduous struggles by the people to reclaim their birthright—the supposed termination of those struggles in the Legislative Act restoring the endowment to its legitimate purposes—and the defeat of those purposes by parties who have neither the capacity nor the integrity—neither the ability nor the inclination to promote any public good. If the system at present in operation were carried on under the sanction of a law, however inexpedient—it might in some respects be defensible as a right—but carried on as it is under a flagrant violation of positive law and on the strength of a usurped power it calls for immediate alteration as subversive of the legal constitution of the Establishment and inimical to the interests of the country



HISTORY OF KING'S COLLEGE TORONTO 1841

THE

ORIGIN, HISTORY, AND MANAGEMENT

OF THE

UNIVERSITY OF KING'S COLLEGE,

TORONTO.

"Tros Tyriusve mihi nullo discrimine agetur."

"What we want is Liberty—Absolute Liberty—Just and True Liberty—
Equal and Impartial Liberty."—*Locke.*

TORONTO
PRINTED BY GEORGE BROWN, 142, KING STREET
MDCCCXLIV.

2812
— 575/7290

TO
THE HONOURABLE ROBERT BALDWIN,
LATE ATTORNEY-GENERAL FOR UPPER CANADA,
WHOSE BILL
INTRODUCED DURING THE LAST SESSION OF PARLIAMENT,
FOR OPENING THE UNIVERSITY OF KING'S COLLEGE
TO
ALL CLASSES AND DENOMINATIONS OF HER MAJESTY'S CANADIAN SUBJECTS,
ENTITLES HIM TO THE GRATITUDE
OF EVERY ENLIGHTENED FRIEND
OF
CIVIL AND RELIGIOUS FREEDOM,
THE FOLLOWING PAPERS
ARE
RESPECTFULLY INSCRIBED.

INTRODUCTION

Much as the public mind has been aroused to the urgent necessity of a thorough University Reform, it is questionable whether the country is yet in possession of all the facts upon which that necessity is based. It must be admitted that the cry of "vested rights," invigorated, as it has been, by the legal hypothesis of an ingenious Counsel, has had some effect in diverting attention from the circumstances which sap that hypothesis in the foundation. But that the High Church party should have had the sole benefit of this cry, is more remarkable than that they should have made every use of it. For, if it can be shown that the endowment of King's College was originally granted for the purposes of general education—that the intention of the grant was to establish a *public institution*—and that the University has been perverted to a private and sectarian purpose, by a party at no period friendly to popular enlightenment,—there must be every reason to complain that the "vested rights" of the people have been grossly infringed—and that the monopoly of the Episcopal Church has been fraudulently acquired, and is unjustly maintained. The question at present before the country is not, whether the exclusive claims of that Church, originally founded on justice, are to be invaded by reason of a public necessity, and whether rights, honestly acquired, are to succumb to purposes of general utility;—but the true question at issue, is simply, whether the University, as a great national institution—endowed with funds for general education—is to be opened to all classes and persuasions of her Majesty's Canadian subjects—or whether it is to be a monopoly, for the exclusive benefit and advantage of the members of the Episcopal Church.

Such is the principle involved in the contest which is now going on—a contest which ought never to have been excited, and which would have been safely and wisely averted, if just and reasonable claims on the one side had been met in a spirit of enlightened justice and toleration on the other. In urging those claims, the people have no desire to injure the Episcopal Church. Many of them are proud to acknowledge their submission to its doctrine, its discipline, and government, and by some of its warmest adherents, is the cause of justice and toleration nobly maintained. Nor do the other denominations ask any superiority or exclusive enjoyment—all that they desire is, equality of privileges in this seat of learning and science, and in pressing this equitable claim, they only seek to have the University restored to the purposes of its original foundation, and to have it adapted to the character and spirit of the present age, which abjures monopolies and exclusions.

It cannot be denied, that recent events have given energy and direction to these claims,—and that the reckless conduct of the monopolists has invested with an imperious character the demand to have the monopoly broken up. The fact that the interests of the University have been sacrificed to schemes of personal ambition and private aggrandizement, and that a noble institution munificently endowed, has been plunged into irretrievable difficulties, by a system of gross and glaring mismanagement—has excited a deep and general feeling of indignation throughout the province in which the members of the Episcopal Church have largely participated.

It has now become too obvious, that the people must have some other security for their chartered rights than the parchment skins on which they are recorded—and that Legislative enactments are of little value, if their execution is to be entrusted to individuals, whose object and interest are to undermine the principles upon which they are framed. It would be a mere mockery to offer any measure of delusive liberality, by which the governing power of the University was not completely changed, and by which those who have violated faith with the people, and with the crown, should not be made to suffer the consequences of their derelictions.

Before King's College can exhibit a vigorous and healthy advancement, and produce the fruits of a complete and generous education, it must at once be freed from the system of despicable proselytism, which at present both fetters its energies and degrades the morals of its youth, and relieved of the management of those individuals, who have so grossly perverted the objects of the institution, and who are now clinging with convulsive tenacity to the power which they have iniquitously abused.

There is every reason to believe that an attempt will be made by the High Church party to defeat the principle of the University Bill, by bribing the leading sects into silence. But to any such unprincipled scheme which would sacrifice the permanent interests of the country to the temporary and pecuniary advantage of particular sects, the people of Canada will assuredly offer the most uncompromising opposition. Full, free and unreserved participation in the benefits to be derived from the University, is the BIRTH RIGHT of every individual in this country, to whatever sect he may belong; and if any man shall be found base enough to sell the civil and religious privileges of the Canadian people, which are the property neither of sect nor of party, for a sectarian or personal advantage, his perfidy will be visited with the execrations of the country and of posterity, and with the contempt of the party who may purchase his degradation.

The great feature of the University Bill was its avowed hostility to all sectarian monopoly. Its object was to make the University a general and NATIONAL INSTITUTION;—an Institution in which the youth of all classes and persuasions might freely mingle; and where, by being combined in their amusements as well as in their studies and pursuits, they might be permanently united in the bonds of friendship and good feeling;—an Institution in which might be nurtured and developed those generous feelings and affections which would mitigate the burning animosities that the conflict of opposite interests might afterwards engender, and which would divest future opposition of its acrimony and its bitterness.

It is time that this great subject should be viewed apart from all sectarian interests, and that it should be contemplated exclusively in its important bearing on the destinies of this Province. In a country so divided by religious opinions, and where the influence and intelligence of the different sects are so nearly balanced, it is of the highest importance that its public institutions should be sufficiently comprehensive to permit of, and to encourage free and unreserved intercourse between the classes. And where can such intercourse and communion be so happily and so completely effected as within the walls of a University where all denominations of Christians would mingle and be educated under one general system, and where, by associating together at the most interesting season of life, they might lay the foundations of future intercourse and mutual good-will, so essential to the well-being of all society, and which are by no means incompatible with differences either in religious faith or political opinion? By such an amalgamation of classes in the combined education of the Canadian youth, we might expect to see the asperities of religious and political differences softened down—the lines of division gradually obliterated—prejudices abated and adverse feelings reconciled.

The grasping conduct of the High Church party has indeed perplexed this subject with considerations extraneous of its own merits, and on none of the important interests of this country has the baneful influence of that party operated to a more injurious degree, than on the progress of general Education and the successful establishment of the University. It is abundantly evident that if King's College be permitted to retain the sectarian and exclusive character which has been falsely imposed on it, and if the other denominations are excluded from a participation in its benefits—whether by their own self-abasement or by the powerful opposition of unscrupulous foes—the various sects will either renew their exertions to obtain the same benefits in other establishments instituted in conformity with their own opinions, or large numbers of the youth of the Province will be driven for their education to foreign Seminaries. But will the country submit to a compromise which will involve the necessity and danger of a separate education for each section of its varied population, which will array them in a hostile attitude one against another, each thinking the other an individual with whom it would be unsafe to associate: the one claiming a superiority to which he is not entitled, the other struggling and resisting under an undeserved inferiority? And has the country generally no interest in seeing that its youth are educated within its own territories, and in taking care that their instruction is not such as may tend to alienate from its institutions those in whose individual genius and integrity it may repose confidence in the hour of difficulty and danger?

Let not the party who would offer such a compromise imagine that the acceptance of their unprincipled bribes by any of the sectarian leaders would set this question finally at rest; for even should the present generation basely barter its rights, posterity will rise to reclaim them, and while a remnant of the endowment is perverted to a sectarian purpose, the struggle for equality will be perseveringly maintained. The purchase of temporary repose would be a transient delusion, renewed demands would be made upon the endowment—each successive demand with as much justice as the first, and the Institution would only be relieved from assaults when participation in its benefits was no longer an object of desire.

No compromise—no fraudulent settlement, nor base bartering of rights, will terminate the struggle for principle, or diminish the resistance to a sectarian ascendancy. That resistance will not cease, till the portals of the University shall be thrown open, and all classes and denominations shall, in the words of Locke, have "LIBERTY—ABSOLUTE LIBERTY—JUST AND TRUE LIBERTY—EQUAL AND IMPARTIAL LIBERTY."

CHAPTER I.

THE ORIGINAL GRANT.

The first public movement, in Upper Canada, towards obtaining a provision for educational purposes, was made in 1797, when the Legislative Council and House of Assembly concurred in a joint Address to King George III., "imploring that his Majesty would be graciously pleased to direct his Government in this Province to appropriate a certain portion of the waste lands of the Crown, as a fund for the establishment and support of a respectable Grammar School, in each District thereof, and also a College, or University, for the instruction of youth in the different branches of liberal knowledge." To this address a favourable answer was transmitted, in a despatch from the Duke of Portland, to the Honourable Peter Russell, then at the head of the Local Government, to which his Grace communicated his Majesty's "most gracious intention *to comply with the wishes of the Legislature* of his Province of Upper Canada, in such manner as shall be judged to be most effectual." With this view, Mr. Russell was directed to consult the members of the Executive Council, and the Judges, and Law officers of the Crown, in Upper Canada, and to report to his Majesty's Government, "*in what manner and to what extent*, a portion of the Crown Lands might be appropriated and rendered productive towards the formation of a fund for the above purposes." On the 1st December, 1798, the Executive Council reported to Mr. President Russell, that an appropriation of 500,000 acres, or ten townships, after deducting the Crown and Clergy sevenths, would be a sufficient fund for the establishment and maintenance of the royal foundation of four Grammar Schools, and an University, and that the proposed School fund should, when raised, be applied:

1st. For the erection of the necessary buildings.

2nd. For the payment of the salaries of the Masters.

3rd. For keeping the buildings in repair, the purchase of books and philosophical apparatus, and other purposes essential to places of education, but in general too costly to be provided by individuals.

The Council also reported that the towns of Cornwall, Kingston, Newark, and Sandwich, were, at that time, the most proper places for the sites of the four Schools, and that they considered York as entitled to the University, both as being the Seat of the Executive Government, the Legislature, and the Courts of Justice; and as being by far the most convenient spot in the province for all general purposes—its situation being nearly central, and besides its accessibility by water, the then proposed high road from the one end of the province to the other being necessarily to pass near it, or through it. The Council proposed that two of the Schools—namely those at Kingston and Newark should be commenced first; and that, whenever the appropriated fund should be found sufficient, the towns of Cornwall and Sandwich should each receive a similar mark of the Royal munificence. In this manner they conceived that the lands thus appropriated would not only be amply sufficient for the establishment and support of the four Schools, but would be nearly, if not quite adequate to the erection and endowment of the University, whenever the advancement of the Province should call for such an Institution, and they recommended, that the provision for the establishment and maintenance of the University should, at least, be equal to that of the four Schools taken together.

The precise details of the action which was taken upon this Report cannot now be ascertained, but it will be observed that the original instructions are sufficiently indicative of the intention of the Home Government to place the educational seminaries and their endowments under the control of the Local Legislature, at whose suggestion the appropriation was made.

In consequence of the reckless profusion of grants which placed the wild lands of the Province in the nominal possession of a few proprietors, who could neither use them themselves nor render them subservient to the promotion of any public purpose, the sale of lands and the advancement of the country were very slow, and consequently for more than twenty years after the original appropriation, the School Lands remained totally unproductive. In 1806, the Legislature, to show that something more than Grammar Schools was required, did all their limited means then permitted, in providing a small apparatus for the instruction of youth in physical science, and in 1807, a temporary act was passed by the Provincial Legislature, and made permanent in 1808, providing for the establishment of a School, answering to a Grammar School, in each District. The School Lands, however, afforded no aid to the District Schools, which were irrespective of the general endowment, and for the maintenance of which the Legislature was compelled to provide otherwise. In 1816, a law was passed for the further improvement and extension of Common Schools. This act was limited to four years continuance, and when renewed in 1820, several amendments were introduced which detracted very much from its value, particularly one which greatly reduced the appropriation.

The reduction referred to was the consequence of the arbitrary and exclusive views which had for sometime manifested themselves in the proceedings of the Executive Government. The High Church party had long monopolized all office and influence, and it is rarely that that party have given a willing support to any general system of Education. Least of all were they likely to afford any countenance to a scheme by which its blessings would have been equally diffused among all classes and denominations. They foresaw that if so valuable an endowment as the School Lands might eventually prove, were left to the disposal of the Legislature, the country would in all probability receive a popular system of Education, unfettered by party or sectarian restrictions, and that a favourable opportunity would thus be lost, of placing the ascendancy of the Episcopal Church on a solid foundation. In 1819, the growing importance of the School Lands attracted the attention of the Government, and the attempt was then made, unfortunately too successful, to defeat the object of the grant by fraudulently diverting it from its original purposes. Without the consent, and indeed without the knowledge of the Legislature, by whom the School Lands had been held in trust, certain members of the Executive Government, among whom was Mr. Strachan (then a leading member of the administration), secretly planned and effected an arrangement by which the people generally might be deprived of all benefit from the endowment, by which the Legislature might be divested of its control, and by which the erection of the Grammar Schools might be postponed to an indefinite period in favour of an Episcopal University, established on such exclusive principles as would benefit only the party to which the members of the Government in those times invariably belonged. A fraud more disastrous to the people has not been perpetrated in the worst periods of Provincial corruption, but the secrecy with which it was devised and executed, effectually protected it from the opposition of the Legislature. The scheme was not once mooted in Parliament, and the robbery was consummated without a single voice being publicly raised in defence of the people's rights.

A Committee of the Executive Council, on 7th January, 1819, reported that no trace of any answer to the Report of the Council of 1st December, 1798, could be found in the Council Office;—that as they were of opinion with the Attorney General (Mr. Robinson) that the appropriation of land was not sufficiently sanctioned to authorise a grant in other portions than limited by his Majesty's Commission, they thought it proper to recommend that his Excellency Sir P. Maitland should call the attention of his Majesty's Government to a formal sanction to "sell, lease, grant, and dispose of the 500,000 acres of land for the purpose of establishing a University, as provision for District Schools was not by them thought necessary out of this fund, their establishment and maintenance having been already provided for by the Legislature, and that in order to construct the necessary buildings, the sum of £10,000 would be required, with an endowment of £4000 per annum for the payment of salaries; and that a Commission should permanently attend, with large powers to sell and lease the land and manage its revenues, *under the direction of the Executive Government*." It was also considered, "that it would conduce much to the importance and utility of the projected University, *if its Constitution should be by a Royal Charter*."

If the necessity which existed for a University, at the time when the population of Upper Canada did not exceed 145,000, and when private enterprise and public improvement were checked by every species of jobbing and extortion on the part of the Government, is it to be estimated by the criterion which the parties who converted the alienation of the School Lands must admit to be a reasonable one—namely, the success of its opening after 24 years of subsequent commercial and agricultural improvement, after the country has quadrupled its population; when the increased value of the lands has enabled the University to enlarge its annual expenditure from £4000, originally proposed by the Executive Council, to nearly £15,000; when it has gone into operation with means munificent beyond all precedent in the early history of any literary institution in America, and indeed in the early history of any country, with a library, philosophical apparatus, and an array of professors and officers, unsurpassed by any other educational seminary on this continent, and when, after being all along under the fostering care and direction of the very individuals who projected its establishment, it has not been able to matriculate in its first and second terms more than 32 students,—it will appear sufficiently obvious that the Executive Government had other objects in view in effecting the alienation than the general diffusion of Education among the people. If, however, the establishment of a University was then deemed necessary, in consequence of the increased number of young men who were turning their attention to the learned professions, the Government was bound to have sought the means from other sources than the School Lands, of which the Legislature were undoubtedly the trustees, and even if the claim of the Executive Council to the control of the endowment had been well founded, its diversion from the original object was a direct violation of trust, and of the stipulations and agreements which had been expressly made when the appropriation was first proposed. The Report of the Council in 1798 suggested the necessity of establishing the Schools before the University should be proceeded with. It expressly stipulated that in the first place the two at Kingston and Newark should be placed on a permanent and substantial foundation, and that "whenever the circumstances of the Province should call for the erection of two other Schools, and also that the appropriation fund should be sufficient not only to bear the expense of the erection and endowment of those two Schools, but also to leave a residue sufficient for the establishment and future maintenance of a Seminary of a larger and more comprehensive nature, the same steps should be pursued with respect to such two Schools as have been already recommended with respect to the two Schools at Kingston and Newark." But what steps had been taken for the erection of the Schools here proposed? It is true that in 1807 the Legislature, finding it absolutely necessary to make some available provision for the education of the people, had established the District Grammar Schools, but the Executive Government of 1819 were perfectly aware, and none knew better than Mr. Strachan, their acknowledged leader, that however liberal the provision might have been when the population did not exceed 50,000, it was quite inadequate to meet the growing necessities of the Province from its increased commercial wealth and population. But if the Legislature, while the School Lands remained unproductive, availed itself of the constitutional means for the diffusion of education by direct taxation, it is difficult to see that in consequence of this step the people forfeited or surrendered their right to the endowment when the lands became available. It was obvious, however, that a popular system of education did not suit the views of the Executive Council, by whom every attempt to introduce it into the Province had been steadily resisted; and the establishment of the University was anxiously regarded as an important feature in the great scheme then contemplated by the High Church party to Episcopalize the Province, and to incorporate the Church of England with the Government, as an appendage to the State.

The acquisition of the School Lands offered prospective benefits of too valuable

a description to be left long unimproved by the High Church party. In consequence of a great portion of the endowment having been carelessly selected from indifferent land in remote parts of the Province, it had remained nearly unsaleable It was therefore proposed by the Council, that in order immediately to place the University on a substantial foundation, the School Lands now appropriated to the University should be exchanged for an equal portion of the Crown Reserves, which were looked upon as immediately marketable. The character of the proposed Institution was at the same time resolved on, and the exclusive Universities of England furnished appropriate models for the erection of this bulwark of Episcopacy The only danger to be apprehended was the exposure of this nefarious scheme at a time when popular opinion might operate against its accomplishment, but at once to silence popular discontent and to protect themselves from future assaults, the High Church party formed the design of entrenching their position by a Royal Charter, which would throw upon the Crown the odium of this illiberal institution It was, however, easy to foresee that a Charter adapted to their design would not be obtained without misrepresentations of so gross a character, that ordinary ingenuity and boldness might fail in the attempt, and as His Excellency Sir Peregrine Maitland had refused his consent to the exchange of the School Lands for the Crown Reserves, without special instructions from the Home Government, the high and important trust was reposed in Dr Strachan of proceeding to England and soliciting in person from His Majesty's Ministers the private transfer of the people's rights—too sacred to be alienable even by themselves—and which, notwithstanding the courage with which he is amply endowed, he would have shrunk from proposing to the people's representatives.

The result of Dr Strachan's mission to England is sufficiently known; but his proceedings while there, form too curious a chapter in the annals of the University to overlooked in this place

CHAPTER II.

THE ORIGINAL CHARTER.

WHEN application for the Charter of King's College was made, Lord Bathurst—a bigoted High Churchman, and odious for his exclusive principles—held the seals of the Colonial Office In him the High Church party of Canada reposed implicit confidence, and the most revolting proceedings were taken in order that a plausible case might be laid before the Secretary and his colleagues. The Dissenters of all denominations were calumniated and insulted in every shape that the rancorous hostility of the Press, and alas! the servility of the Pulpit, could devise. They were stigmatized as Republican in their principles, and disloyal in their affections—they were insultingly taunted with ignorance and idleness, and were even made the objects of systematic and direct persecution on the part of the magistrates It was thought, that if his Majesty's Ministers could be impressed with the idea that Dissenters generally were disaffected, measures would be adopted in Canada similar to those which had formerly driven the Puritans from the British shores, and that the Episcopal Church would be secured in those privileges and immunities which were enjoyed by the Establishment in England Not the least notable of the slanderous effusions of High Church intolerance was a Sermon preached by Dr Strachan, then Archdeacon of York, immediately previous to his departure for England, on the death of Dr Mountain, the first Bishop of Quebec. On an occasion of such solemnity, it might have been expected that the shafts of calumny and misrepresentation would have been sparingly used, and that over the ashes of the dead, sectarian hostility would have yielded to sadder and holier feelings For the benefit of those who are curious in High Church eloquence, we subjoin a specimen of the pious denunciations with which this Christian Archdeacon appeased the manes of his departed brother of Quebec

"Even when churches are erected, the minister's influence is frequently broken or injured by numbers of uneducated itinerant preachers, who, leaving their steady employment, betake themselves to preach the Gospel from idleness, or a zeal without knowledge, by which they are induced without any preparation, to teach what they do not know, and which, from their pride, they disdain to learn

"When it is considered that the religious teachers of the other denominations of Christians—a very few respectable ministers of the Church of Scotland excepted—come almost universally from the Republican States of America, where they gather their knowledge and form their sentiments, it is quite evident, that if the Imperial Government does not immediately step forward with efficient help, the mass of the population will be nurtured and instructed in hostility to our Parent Church, nor will it be long till they imbibe opinions any thing but favourable to the political institutions of England

"It is only through the Church and its Institutions, that a truly English character and feeling can be given to, and preserved in any foreign possession."

Previous to Dr Strachan's arrival in England, the Colonial Secretary had been carefully prepared for the extraordinary demand which was about to be made In a petition to his Majesty and the British Parliament, which he transmitted through Lord Bathurst, the Rector of York announced the following astounding facts

"That the population, now greatly increased, and embracing in its bosom many denominations of Christians, still retains its prominent feature of being attached to the Church of England, the members of which, together with the Dutch and German Lutherans, who join them in communion, comprising by far the most numerous description of Christians in Upper Canada

"That the very little progress made by the other denominations, compared to that of the Church of England, and the very recent establishment of their scanty congregations, has generally created in the minds of the people a veneration for it, as the established form of worship, a *light in which it has always been presented* [by the Doctor and his friends], *to the inhabitants of this Province,* *from their earliest years.* Such is now the state of the Province, and the desire for religious instruction according to the forms and discipline of the Church of England, that many intelligent persons well acquainted with the Colony are of opinion, that along the greater part of the main road passing from one extremity of the Province to the other, a distance of nearly 600 miles, a Church might be erected, and a Clergyman profitably placed at the distance of every ten miles, and this exclusive of the parishes already established.

"That when new missions are planted in any quarter, not only those persons readily join who are not particularly attached to any denomination, but even Presbyterians and Congregationalists attend public worship with their families, so that on many occasions the whole neighbourhood becomes united to the Church, and not only are their dead buried according to its rites, but likewise the bodies of their friends and relations are frequently collected from private places of interment, and again consigned to their graves in the public burial ground, with the solemn offices of the Church. Moreover their children are baptized and educated in the bosom of the Church, and the greater number at length confirmed by the Bishop, and a congregation is thus in a few years formed, strongly attached to our venerable Establishment; and even in those remote parts of the country where Methodist itinerants are the most active, so soon as the population is sufficiently compact to admit and require the ministrations of a regular Clergyman, *he finds his congregation increasing by the gradual accession of their more respectable adherents.*

"*That the Church is increasing so rapidly as to offer great encouragement to respectable families to bring up their children to the sacred profession—accordingly a list of more than thirty students now lies before your petitioners, and many more young men than can possibly be provided for, are presenting themselves* to the Lord Bishop as candidates for Holy Orders.

"No objection is made by parents against teaching their children the Church Catechism and the service of the Church from the Book of Common Prayer; on the contrary, all denominations are desirous of obtaining both, for their own and their families edification. The whole neighbourhood bring their children to the resident Clergyman to be baptized, and submit in great numbers, both old and young, to the rite of confirmation, send their youth to the Sunday Schools, and allow them, after their tasks are heard, to walk in procession to the Church. In fine, there evidently appears the fairest prospect that the Church of England, from the favourable disposition that now exists towards it, will be able to collect within its bosom the bulk of the inhabitants, *should no prospect of supporting their Clergy* be held out to the various Protestant denominations.

"That, with the exception of the Methodists, who have been deserted by their brethren in England and left for instruction to itinerants from the United States, there appears no prominent denomination of Protestants in this Province, but the Established Church, capable of exciting public attention.

"There is no appearance in any other part of the Province of a third congregation in communion with the Kirk of Scotland being formed; nor is this denomination popular, for when the people leave the Established Church, they claim the privilege of electing their minister from whatever quarter they please, which the Kirk denies them. Indeed the Presbyterian form of discipline and Church government is inconsistent with extension, as it cannot be complete out of Scotland, nor can its clergy be placed in a distant colony under vigilant superintendence."

Immediately on his arrival in England in 1826, Dr Strachan placed himself in communication with the leaders of the High Church party, from whom he solicited contributions in aid of the funds of the University, and their influence and assistance in obtaining an exclusive Charter. In England he openly avowed the design which he dared not to have breathed in Canada. In a pamphlet, which he published in London, entitled, "An Appeal to the Friends of Religion in behalf of the University of Upper Canada," he distinctly stated that it would be essentially a Missionary College "for the education of Missionaries of the Church of England"—and, as an inducement to the members of that Church to contribute towards the funds of the College, he maintained, that the effect of establishing this University would be ultimately to make the greater portion of the population of the Province members of the Church of England.

To the various parties with whom the Reverend Doctor communicated privately, he urged every variety of argument, and, without much regard to consistency, he adduced every variety of fact. From the Society for the Propagation of the Gospel in Foreign Parts he claimed assistance on the ground of his "*having been instrumental in establishing a scheme in Canada, by which the education of the whole population is virtually under the direction of the Church.*" He informed them that there were in this Province "300,000 British Protestants" (meaning of course members of the Episcopal Church), and that the only antagonising influence with which they had to contend was the existence in Lower Canada of 400,000 Catholics. To the Church Missionary Society he repeated much of this invaluable information; and by way of shewing that the establishment of a University in Upper Canada was correlative to their zeal in propagating Christianity among the heathen, he enlarged upon his own tender and paternal feelings towards the Indians, and actually acceded to a proposal for the Establishment of Scholarships, with suitable professors, for the exclusive benefit of the Tribes.

But the most elaborate information in regard to the Ecclesiastical Statistics of the Province, was contained in a Letter and Ecclesiastical Chart, which he transmitted to the Hon. R. J. Wilmot Horton, then Under Secretary of State, upon which communication he grounded the exclusive claims of the members of the Church of England to the benefits of the Clergy Reserves and the University. In the Chart he stated that "in connection with the Established Church there were 39 clergymen, 58 places where there was regular or occasional service, exclusive of frequent journies taken by the missionaries to the new settlements in their neighbourhoods,—45 churches, and 31 regular parishes." That there were 7 ministers of the Independent or Presbyterian order "assuming the appellation of the Presbytery of the Canadas, but having no connection with the Kirk of Scotland,"—that there were two ministers in connection with the Kirk—and "as the Methodists have no settled clergymen, it has been found difficult to ascertain the number of itinerants employed; but it is presumed to be considerable, perhaps from 20 to 30 in the whole Province. The other denominations have very few teachers, and those seemingly very ignorant. One of the two remaining clergymen in communion with the Church of Scotland, has applied to be admitted into the Established Church."

Dr Strachan's Letter to Mr Horton, enclosing the Chart, furnishes so much important evidence of the gross misrepresentations upon which the Royal Charter was obtained, that it is proper to quote it at length

"SIR,—I take the liberty of enclosing for the information of Lord Goderich, an Ecclesiastical Chart of the Province of Upper Canada, which I believe to be correct, for the present year 1827, and from which it appears that the Church of England has made considerable progress, and is rapidly increasing

"The people are coming forward, in all directions, offering to assist in building churches, and soliciting with the greatest anxiety the establishment of a settled minister Indeed the prospect of obtaining a respectable clergyman, unites neighbourhoods together and when one is sent of a mild and conciliatory disposition, he is sure in any settlement in which he may be placed, to form the respectable part of the inhabitants into an increasing congregation There are in the Province 150 Townships, containing from 40 to 500 families in each of which a clergyman may be most usefully employed and double this number will be required in less than twelve years

"When contrasted with other denominations, the Church of England need not be ashamed of the progress she has made Till 1818, there was only one clergyman in Upper Canada a member of the Church of Scotland This gentleman brought up his two sons in the Church of England, of which they are now parish priests. After his death, his congregation was split in three divisions which with another collected at Kingston in 1822, count four congregations in all, which are in communion with the Kirk of Scotland Two are at present vacant and of the two Scotch clergymen now in the Province, one has applied for Holy Orders in the Church of England.

"The teachers of the different denominations, with the exception of the two ministers of the Church of Scotland, four Congregationalists, and a respectable English Missionary who presides over a Wesleyan Methodist meeting at Kingston, *are for the most part from the United States, where they gather their knowledge and form their sentiments* Indeed the Methodist teachers are subject to the order of the Conference of the United States of America, and it is manifest that the Colonial Government neither has nor can have any other control over them, or *prevent them from gradually rendering a large portion of the population, by their influence and instructions, hostile to our institutions both civil and religious, than by increasing the number of the Established Clergy*

"Two or three hundred clergymen, living in Upper Canada, in the midst of their congregations, and receiving the greater portion of their increase from funds deposited in this country (England), must attach still more intimately the population of the Colony to the Parent State Their influence would gradually spread, they would infuse into the inhabitants a tone and feeling entirely English, and *acquiring by degrees the direction of education which the Clergy of England have always possessed*, the very first feelings, sentiments and opinions of the youth must become British"

Deceived by such representations, and unsuspicious of the veracity of the highest Episcopal Ecclesiastic of Upper Canada, the Colonial Secretary, in an evil hour, affixed his signature and the Royal Seal to a Charter in the terms required, and the Archdeacon of York was rewarded with a sum of £1300 for his invaluable and meritorious exertions on behalf of the Episcopal Church.

When a Royal Charter was first openly spoken of in this country, it was generally understood that, as it was then impracticable to have several appropriate Colleges for the different sects the University would be adapted to the existing state of the Province, and to the wishes and wants of its mixed population.

The consternation and disappointment then were proportionably great when the provisions of the Charter became known, and it was ascertained that the University had been converted into a purely Episcopal College. In his Speech at opening the Parliament, on 15th February, 1828, his Excellency Sir P. Maitland said:— "I have much pleasure in announcing to you, that his Majesty has very graciously provided for the establishment of an University in this Province, and has bestowed means which will answer the early accomplishment of an object, long regarded by me as among those most to be desired for the welfare of the Colony." But to this part of the Address the House of Assembly replied with becoming caution and reserve in the following words:

"We shall be highly gratified to find that His Majesty has very graciously provided for the establishment and endowment of an University in this Province, if the principles upon which it has been founded shall, upon enquiry, prove to be conducive to the advancement of true learning and piety, and friendly to the civil and religious liberty of the people."

In the meantime, rumours of the exclusive provisions of the charter having transpired, the indignation of the Province was effectually roused. It was willingly believed that His Majesty's Ministers had been deceived by gross misrepresentation, and that if they had been truly informed of the condition of the Province, and the religious views and feelings of the people, the Royal sanction would never have been given to a charter which denied their civil and religious equality. Petitions from all parts of the country were poured into the two Houses of Parliament, representing that the principles of the Charter were inconsistent with the unimpaired preservation and maintenance of the civil and religious rights and privileges of the people. It was thought that a University, adapted to the character and circumstances of the people, would be the means of inestimable benefits to the Province; but, to be of real service, the principles upon which it was established should have been in unison with the general sentiments of the country—that it should not be a school of politics or sectarian views—and that it should have about it no appearance of a spirit of partiality or exclusion. That its portals should be thrown open to all, and upon none who entered should any influence be exerted to attach them to a particular creed or Church. That it should be a source of intellectual and moral light and animation, from which the glorious irradiations of literature and science might descend upon all with equal lustre and power. But if King's College under the Charter, formed as it was for the exclusive advantage of a single Church, and that a minor one, should be suffered to go into operation, without material amendments in its provisions, and without another College being established for the general benefit of other religious denominations, the inevitable consequence would be, that the native youth of the Province, receiving a public education, would, with the exception of Protestant Episcopalians, be generally sent out of the Province, to obtain it at Colleges where they could be taught classical learning, and the arts and sciences, without prejudice to their religious principles and feelings. Parents who were conscientious in their profession of religion would not willingly put their sons, in the unguarded season of youth, under a process of religious proselytism to a different faith, and the people felt that to be thus excluded from the offices and honours of the only College in the Province, and subjected to literary as well as ecclesiastical domination, for no other crime than that of adhering to the dictates of their conscience, was an unmerited degradation. It was at once perceived that the grand policy of the High Church party to Episcopalize the Province had come into operation, and that this was one great step towards the establishment of a minor Church, with exclusive privileges and resources, over a dissenting majority of the population—declaring her form of religion to be the established religion of the Province, and her ministers the only Protestant Clergy, granting them civil monopolies and immunities, and a control of the education of youth by means of the University. It was felt that such a system would, as it had been in Ireland, be a perpetual source of religious and political animosity—that it would give one Church a permanent separate interest adverse to the other more numerous Churches—and that all these other Churches, irritated by a baneful monopoly and domination, would be induced to make common cause in their own defence in opposition to the dominant Church.

It was therefore thought that his Majesty's Government could never have contemplated the limitation of its beneficence, by establishing the University upon such terms as must either preclude from its benefits the greater part of those for whom it was originally intended, or subject them at an age ill qualified to guard against such attacks to the silent but powerful influence of a prevailing and regular system of proselytism, and that they could not have been aware of the insurmountable objections to which, from the circumstances of the country and the sentiments of the people, some of the provisions of the Charter were liable.

Petitions were at the same time presented to Parliament by various denominations of Christians, praying an inquiry into the truth of the charges and statements made by the Archdeacon of York, relative to the character and instructions of the respective clergy whom he had stigmatized as mixing up sedition with the Word of God. These petitions, with the others, praying for inquiry into the principle on which the University was established, were referred to a Select Committee of the House of Assembly, with power to send for persons and papers, and to report thereon. This Committee performed their duties with the strictest impartiality. Before proceeding to the examination of the Letter and Chart, the Chairman transmitted to Dr. Strachan a copy of one of the petitions referred to them, and informed him that they would be happy to receive from him any information upon the matter submitted to their consideration. To this communication Dr. Strachan returned an answer, declining to avail himself of the Committee's offer to receive explanations, but adhering to the statements which he had made in England. "For my opinions," he wrote, "I am responsible to no one. I had no desire to conceal them, and they were therefore publicly and openly expressed. No consideration could have prevailed upon me to deny or mis-state them; but in applying them, every candid mind will feel that the general expressions used admit the existence of exception. I desire it only to be borne in mind, that *they* *were given from memory!*" a circumstance which Dr Strachan took [illegible] care to conceal from Mr Horton. The Committee framed a list of fourteen questions, and examined in all fifty-two witnesses. Among the witnesses were all the Members of the House of Assembly, whose testimony they could obtain; some Members of the Honourable the Legislative Council of long residence, high standing, and large possessions in the Province; various Clergymen of different denominations in York and its vicinity, and a *few* other individuals of high respectability.

The questions put by the Committee, related, among other things, to the birth place and education of the ministers of the various denominations; the tendency of the instruction and influence of the Clergymen throughout the Province; the asserted increase of the Episcopal Church, and the tendency of the population toward it, the wishes of the inhabitants of Upper Canada in regard to the establishment of one or more Churches or Denominations in the Province, with peculiar rights, privileges or endowments; the interference in politics by the Clergymen of the various denominations, the proportion of the members of the Episcopal Church to the whole population of the Province, the opinions of the witnesses as to which was the most numerous denomination of Christians in the Province, the asserted ignorance of the teachers of the various Christian Denominations, and the accuracy of Dr Strachan's Ecclesiastical Chart of the Province.

The interrogatories elicited a mass of curious and interesting information as to the early Ecclesiastical history of Upper Canada—and in every important particular Dr Strachan's statements were proved to be false by the most irrefragable testimony.

The assertion in Dr Strachan's letter that "the people are coming forward in all directions offering to assist in building Churches, and soliciting, with the greatest anxiety, the establishment of a settled Minister," and that "the tendency of the population is toward the Church of England, and nothing but the want of moderate support prevents her from spreading over the whole Province," were completely overthrown by the evidence. It was proved, that although the Episcopal Church had always enjoyed peculiar advantages in Canada, although it had been the religion of those high in office, and had been supported by their influence, and countenanced more than any other Church, by the favor of the Executive Government, that although its clergymen had possessed the exclusive right of marrying persons of all denominations, and that although the clergymen of the Episcopal Church had also been liberally supported, and their Churches partly or wholly erected and maintained from the funds of a Society in England, still the number of members of that Church had not increased in the same proportion as that of several other denominations, and the opinion of the witnesses was decidedly expressed that the tendency of the population was *not toward that Church*. On the other hand, the highest testimony was offered to the disinterested and indefatigable exertions of the Methodist, Presbyterian, and other clergymen who had been calumniated by Dr Strachan's unfounded insinuations.—Their influence and instruction, far from having (as was represented in the letter) a tendency hostile to the religious and political institutions of the Province, had been conducive in the highest degree, to the reformation of their hearers from licentiousness, and the diffusion of correct morals, the foundation of all sound loyalty and social order There was no reason to believe that, as religious bodies, they had failed to inculcate, by precept and example, as a Christian duty, an attachment to the Sovereign, and a cheerful and conscientious obedience to the Laws of the country.

Compared with the whole population, the members of the Church of England were found to constitute an extremely small proportion On this subject the Committee used every exertion to inform themselves with accuracy Besides obtaining answers from the witnesses to very minute questions, a Committee was appointed to hold its meetings at York, called the Central Committee of Upper Canada, and was directed to correspond with the other parts of the Province, to suggest the appointment of District Committees, and to request that they would carefully collect and transmit to the Central Committee at York, accurate information respecting the number of persons belonging to the religious denominations in their neighbourhood. In consequence of these instructions, communications were received from the various parts of the Province, containing correct and full information upon this subject, obtained from personal knowledge or inquiry, and authenticated by the signatures of respectable inhabitants. A Chart was framed from the materials thus obtained, and presented, in the opinion of the witnesses who spoke to it, a very complete and fair view of the number of ministers and of the different religious denominations in the Province The information conveyed by this Chart so completely and satisfactorily contradicts and falsifies Dr. Strachan's statements, and bears so materially on the question, whether a Charter granted on false representations and calumnious insinuations, should not be set aside and cancelled, that we think it right to subjoin abstracts of the Charts framed by Dr Strachan, and by the Committee of the House of Assembly respectively

ABSTRACT OF DR. STRACHAN'S ECCLESIASTICAL CHART,

FOR THE YEAR 1827

DENOMINATIONS	*Clergymen.*	*Places of Worship.*	*Churches built or building.*
Episcopalians, - - - -	39, and 1 under consideration	58 places where regular or occasional service	45, ten of them building.
Kirk of Scotland, - - -	2, two others vacant	4	
Independents, - - - -	6	6	
Methodists,* - - - -	From 20 to 30		

* "As the Methodists have no settled Clergymen, it has been found difficult to ascertain the number of itinerants employed but it is presumed to be considerable—perhaps from twenty to thirty in the whole Province The other denominations have very few teachers and these seemingly very ignorant. One of the two remaining Clergymen in connexion with the Church of Scotland, has applied to be admitted into the Established Church."—*Dr Strachan's Note.*

ABSTRACT OF ECCLESIASTICAL CHART PREPARED BY COMMITTEE OF THE HOUSE OF ASSEMBLY

REPORTED MARCH 8, 1828.

DENOMINATIONS.	Number of Preachers.	No. born in His Majesty's dominions.	No. born in Foreign countries.	No. birth unknown.	No. educated in His Majesty's dominions.	No. educated in Foreign countries.	No. educated unknown.	No. naturalized.	No. not naturalized.	No. of Members or regular Communicants.	No. of Churches or Chapels.	No. of places of regular service.	No. of places of occasional service.	No. of regular hearers.
Methodists, - - - -	117	80	37	0	89	28	0	29	6	9009	66	623	130	30,911
Baptists, - - - -	45	26	4	15	26	1	16	4	0	1435	3	6	No return	5140
Episcopalians, - - -	31	11	0	20	10	1	20	0	0	No return	38	31	38	No return
Presbyterians, - - -	16	10	3	3	11	3	0	1	0	648	22	No return	No return	No return
Kirk of Scotland, - -	6	4	0	0	4	0	0	0	0	No return	No return	No return	No return	No return
Mennonists and Tunkers,	20	0	20	0	0	20	0	13	3	1164	5	No return	No return	2388
Wesleyan Methodists,	1	1	0	0	1	0	0	0	0	50	1	1	No return	100

NOTE.—The Roman Catholics are not given in the Chart, but it is well known that they were equal in number to any other denomination in the Province. There was also a considerable number of Lutherans and Quakers, of whom no notice seems to have been taken by the Committee.

No return seems to have been obtained from the Episcopalians of the number of regular hearers. It would be impossible to hazard a conjecture as to their amount. In a "Report of the Society for the Propagation of the Gospel in Foreign Parts, for the year 1821," it is stated that "the greatest number of Church of England communicants at any one time during that year was 367."

That the grand policy of the High Church party was to Episcopalize the Province by means of the University was now sufficiently obvious from the undisguised sentiments of their acknowledged leader, who quickly saw that such was the natural tendency and effect of putting into the exclusive hands of the Episcopal Church, the only seminary of learning in the country where a liberal education could be obtained. It was obvious, however, that there was in the minds of the people generally, a strong and settled aversion to any thing like an Established Church—the very attempt to invest the Episcopal Church with peculiar rights and privileges, from which the other sects were excluded, excited the greatest alarm and jealousy throughout the country. It was felt that it would be impolitic, as well as unjust, to exalt this Church, which embraced so small a minority of the inhabitants, by exclusive rights above all others of his Majesty's subjects, who were equally conscientious and deserving, and that the jealousy and alarm of the people were sufficiently well founded was but too obvious from the exclusive provisions of the Charter itself, a copy of which was sent down to the House of Assembly by the Lieutenant-Governor.

It appeared that the following were among its provisions: The Bishop of the Diocese was to be visitor, and as such might disapprove of the bye-laws made for the College by the Council, which thereby became void, unless His Majesty in Privy Council afterwards reversed this order, the Governor, Lieutenant Governor, or person administering the Government, was to be Chancellor, the President was to be a Clergyman in holy orders of the Church of England: the Honourable and Venerable Doctor Strachan, Archdeacon of York, was to be the first President—the Corporation was to consist of the Chancellor, President, and Scholars of King's College and was authorized to take and hold real Estate, not exceeding the yearly value of £15,000, the College Council was to consist of the Chancellor, President, and seven other persons, who were to be Members of the Church of England, and to sign the thirty nine Articles of that Church, previous to their admission into the Council: the Council, under certain restrictions, were to make bye laws for the College, one of these restrictions was, that no religious test or qualification should be required of, or appointed for any persons admitted or matriculated as Scholars in the College, except that those admitted to the degree of Doctor in Divinity should take the same declarations and subscriptions, and take the same oaths as are required of persons admitted to any degree of Divinity in the University of Oxford. The Chancellor, President, and Professors of the College, and all persons admitted in the College to the degree of Master of Arts, or to any degree in Divinity, Law, or Medicine, who, from the time of such admission should pay the annual sum of 20s. sterling, towards the support of the College, were to be members of the Convocation.

Such were the exclusive constitution and government imposed upon an Institution professedly designed for the promotion of science and learning among the people of Canada! That a Charter, so violently repugnant to the feelings and convictions of the community, should have been received with joy by the

High Church party, was of course to have been expected: but that the British Government should, in a matter of this kind, have shown any disposition to plant institutions in its transatlantic dependencies in accordance neither with the spirit of the age, nor with the principles which had for some time governed its domestic policy, can only be attributed to the fact—of which abundant proof has been given—that it was grossly deceived and imposed upon. And even were there not in existence ample documentary evidence to support the charge of deception, how otherwise is it possible to reconcile the policy of that Government, which had uprooted intolerance at home, and was about to wage open war with all monopolies and exclusions, civil, religious, and commercial; which had recently relieved the *Dissenters* of the odious Test and Corporation Acts; which was diffusing the blessings of a *national* education among the people of Ireland, without distinction of creed, and was about to send joy and gladness into the bosoms of the Roman Catholics, with the acceptable boon of Catholic Emancipation,—with the establishment, in a country buoyant with free principles, and in a vast community composed of Christians of different faiths, and worshipping under different forms, of a University unparalleled for its exclusive character and odious distinctions by any educational Seminary on the continent of Europe? Oxford and Cambridge indeed formed exceptions to the universal abandonment of tests—and even there, religious restrictions were only defended and maintained on account of the intimate association and practical connection of these time-hallowed Institutions with the National Church. Yet in Oxford and Cambridge themselves religious distinctions were comparatively new, and had been imposed at a period—by no means the brightest in their annals,—when genuine freedom was almost unknown, and when speaking of liberty, or expressing an opinion favouring of schism was sufficient to bring a man within the fangs of the Court of High Commission

But when the Charter of King's College was obtained, such intolerant principles had been repudiated by every State in Europe, and exclusive distinctions on account of religion had been abandoned in all the great National Universities. In France, in Germany, and in Austria, persons of all religions were freely admitted into the Professors' chairs. In the University of Bologna, where the Papal authority was paramount, there was no exclusion on the ground of religion In Pisa, no restrictions were recognized, and, in point of fact, Mohammedans, Jews, Greeks and Turks were indiscriminately admitted Indeed it frequently occurred that some of the Professors' Chairs were filled by English Protestants, and one circumstance sufficiently attests the total absence of that fanatical intolerance which seemed to have been put to flight in Europe, to find a refuge in the Academies of Canada. When a Mohammedan takes a degree at Pisa, the Chancellor, who is generally a Vicar-general, or Archbishop, leaves the chair, and the Vice Chancellor, whose religious scruples are not necessarily under the influence of Church preferment—presides at the ceremony At Padua, the chairs have been frequently filled by foreigners—by members of the Church of England—by Presbyterians, and by Calvinists. Thus, in the Roman, Venetian, and Austrian States, there was an absence of jealousy and religious exclusions at the Roman Catholic Universities. Nor was there any disposition to interfere with rational consideration and the rights of private judgment exhibited in the Universities in any part of Protestant Europe. In Bonn, Baden, Breslau, and Copenhagen, the Universities were open to all. In Leyden, the Professors might be Roman Catholics; and in Copenhagen, one of the chairs was, at the very time the Charter of King's College was obtained, filled by a Jew. In the Scottish Universities, the Test Statute originated in the zeal of the anti-patronage Presbyterians after the Revolution, and was enacted by the Scotch Parliament for the sole purpose of excluding Episcopalians from the Colleges, at a time when Episcopalians and members of the Society of Friends were conceived to be alike unworthy of toleration. For many years, however, the Statute had been evaded, and its evasion winked at by the constituted authorities, and it is a somewhat remarkable circumstance, that a pretty liberal infusion of Episcopalian Professors, Lecturers and Students into the Scotch Universities seems to have been attended with no very fatal result. Indeed, while every University in Europe was practically thrown open to persons of all religious persuasions, Oxford and Cambridge alone were close, and yet modelled upon these exclusive establishments, in which High Church principles have ever been dominant, and a violent and bigoted hostility to the claims of Dissenters, has ever been maintained,—the attempt was made to establish a University, intended to be the hotbed and nursery of intolerant prejudices, in a country whose very atmosphere was freedom—whose infancy and growth, unlike that of the European States, had not been stunted by oppression—but which had sprang at once into the full manhood of liberty, and the possession of political rights, among a people who had ever evinced the most inveterate dislike of a dominant Church, and a severe jealousy of religious distinctions, and whose proximity to a land of free institutions, naturally made them chafe under any galling ascendancy which might expose them to the taunts of their ostentatious neighbours.

Were the character of Lord Bathurst less understood, or were the blind and bigoted zeal of the High Church party in England, as well as in Canada, less violent and headstrong, it would be difficult to conceive how the gross and calumnious misrepresentations of the Archdeacon of York, urged even though they were with the reckless temerity for which he is remarkable, should have escaped detection. Certain it is, that within the space of a few months, he had published statements, not only at utter variance with the truth, but most violently contradictory to each other. Thus, for instance, in his sermon on the death of the Bishop of Quebec, he complained that, "sectaries of all denominations are increasing on every side;" while in his letter to Mr Horton, he affirmed, that "the Church of England is rapidly increasing," and that "the tendency of the population is towards that Church." In the sermon he admitted, that "even where churches were erected, the persons who gave regular attendance are so few as greatly to discourage the minister;" while in the letter he asserted that, "the people *are coming forward in all directions*, offering to assist in building churches, and soliciting with the greatest anxiety the establishment of a settled minister." In the reckless statements which he poured forth in England, he unhesitatingly averred, that "the members of the Church of England were the most numerous of any religious denomination in the Province," but when examined on oath by a Parliamentary Committee in reference to the truth of that statement, and confronted with persons intimately acquainted with the state of the country, he admitted that "*he never knew the number of members belonging to the Church of England, and that he could not tell how numerous they were.*" Such are only a very few of the glaring inconsistencies and contradictions which graced the written and public assertions of this Episcopal dignitary: and yet so little in unison was the local Administration with the interests and feelings of the people, and so little were those interests and feelings known or understood by the British Government, that his calumnies and mis-statements were implicitly believed, and, without further inquiry having been instituted, were made the ground for the establishment of an Episcopal University for the exclusive benefit of an unacceptable minority of the community.

It would be a matter for much curious and not uninstructive speculation, to inquire by what irresistible arguments of a violent and bigotted partizan, a Colonial Minister could be induced to insult the convictions, and to trample on the liberties of a free people. It was impossible to mistake Dr Strachan's real object, for that was openly avowed, and, in fact, it formed no part of his plan to conceal his ultimate design. His undisguised and avowed object was to Episcopalize the Province, and as the readiest means for attaining so desirable an end, he proposed that a fund, originally appropriated for the purposes of general education, should be applied to the endowment of "an essentially Missionary College, for the education of missionaries of the Church of England," who, he trusted, would be afterwards supported in such numbers by means of the Clergy Reserves, as would speedily reduce the Province to the ecclesiastical jurisdiction of that Church. And by what honeyed phrase and treacherous sentiment was this Colonial Minister induced to give his Majesty's sanction and approval of a nefarious and fraudulent scheme to rob the Canadian people of their birthright? Does the veracious Archdeacon inform the Colonial Secretary that there are three denominations in the Province more numerous than the Church of England? Does he tell him what, as a minister of Truth, he had but a few months before told the people of Canada from the pulpit, that "where churches are erected, the persons who give regular attendance are so few as greatly to discourage the minister" and that "sectaries were increasing on every side?" Does he intimate that the means for the diffusion of general education are deplorably deficient, and that the endowment originally set apart for that purpose had never become available? Dr Strachan has too ready a perception of the character with whom he had to negotiate, to hope for success by revealing startling facts, but he at once reverts to the old argument, practically carried out by the Stuarts, and which still had its admirers among the High Churchmen of England. He informs the Secretary that the dissenting preachers are few and ignorant, and that their hearers are disaffected. The dissenters were ignorant—and yet he would exclude them from the best education which the country could afford! They were disaffected—and yet he would drive them for their education to foreign seminaries, where their principles might be endangered! Their ministers were placed in situations requiring the highest cultivation of the mind—and yet he would debar them from the means of qualifying themselves for the discharge of those duties which their situation imposed upon them! He would exclude them from knowledge—and yet punish them for ignorance! He would rail against their disaffection, and yet preclude them from the enjoyment of those civil privileges which were open to others by partiality and favouritism! Admirable High Church logic! Generous exuberance of High Church philanthropy! It is not impossible that the love of classical allusion which recently inspired the recondite Bishop of Toronto, in his luminous comparison of the principle of University Bill with the policy of "Pagan Rome, which, to please the nations she had conquered, condescended to associate their impure idolatries with her own"* may also have felicitously suggested to the erudite Archdeacon of York, a parallel illustration of High Church doctrine in the Emperor Julian's celebrated decree, which prohibited all Christians from the study of heathen learning—for, reasoned this practical and precocious expounder of High Church policy—"they will wound us with our own weapons, they will overcome us with our own arts and sciences." Alas! how fatal to the peace and prosperity of Canada—how disastrous to the interests of true religion has it been, that this proselytising Prelate, and the intolerant party with which he is associated, should never have been able to discover that if the principles of Episcopacy are so conducive to loyalty and good government, no more effectual method could be devised for bringing the dissenters within the pale, as well of the constitution as of the Church itself, than by admitting them to a full and unreserved participation with its members in the privileges and benefits to be derived from the general institutions of the country.

~~~~~~~~~~

CHAPTER III.

PROCEEDINGS IN PARLIAMENT.

Dr. Strachan's calumnious misrepresentations drew down upon him the indignation of the whole Province. Numerous petitions from every part of the country, and from Christians of all denominations, were addressed to the Provincial and Imperial Parliaments, emphatically disavowing the disaffection which had been libellously imputed to them. Many who had been previously passive were now roused into active exertion. Public meetings were held at

---

* See Bishop Strachan's Memorial to the Legislature against the University Bill, in 1843.
~~~~~~~~~~

York and various other places, where expression was freely given to the indignation which was universally felt at the illiberal and exclusive provisions of the Charter, and the base insinuations by which the character of the Clergy had been stigmatized. This fresh attempt to trample on their civil rights was viewed by the people as part of that system of religious intolerance under which they had long groaned, and of which Dr Strachan had been the chief promoter.

Year after year he had opposed a Bill to allow the Clergy of the various sects to solemnize marriages among their own flocks, and through his untiring instrumentality, a Bill authorising the different denominations to hold lands which had been repeatedly passed in successive sessions by the Assembly, was defeated in the Legislative Council. Irritated by direct injury, and indignant at the manner in which their representations had been received by the Local Administration, it was at length resolved to make a solemn and direct appeal for redress to the British Government, and, at the same time, to call the attention of the Imperial Parliament to the degrading position in which the people of Canada felt themselves placed by the local Government. Accordingly, at a Public Meeting, held at York, in the beginning of 1828, an Address to the House of Commons was agreed upon, and, after receiving the signatures of 8000 Christians of all denominations, was transmitted to Mr Hume for presentation. In laying this Address on the table of the House, Mr Hume ably exposed Dr Strachan's calumnious insinuations and mis-statements, and thus alluded to the Charter of King's College:—

"The Charter requires all the Professors and Officers of the University to subscribe the Thirty-nine Articles of the Church of England. This is the spirit in which the regulations are drawn up for a Public Seminary, at which the youth of Upper Canada are to be educated. They are taught by Professors who hold the tenets of a small minority only of those Provinces. I have reason to believe that His Majesty's Government have been much imposed upon by Dr Strachan, whose statements are completely exposed by the petition. That reverend gentleman has aroused all classes by his aspersions upon the Clergy of all other denominations. He has thrown out the most vague accusations and suspicions respecting their fidelity and loyalty, which he has addressed especially to the Royal ear, with the view of poisoning it. Among other misrepresentations, Dr Strachan stated, that of all the Clergymen in Upper Canada, not belonging to the Church of England, there were only five who were not from the United States, where, he said, they acquired opinions at variance with their duty as subjects of His Majesty. He asserts, also, that they are under the influence of the American Conference, and that the Colonial Government has no control over them. This is a gross misrepresentation, yet by means of it, Dr Strachan has persuaded His Majesty to increase the exclusive privileges of the Church. What will the House say, when I tell them that the members of the Church of England form only a tenth part of the population, and when they hear how grossly Dr Strachan has slandered the other Clergymen of Upper Canada? By the investigation which has been instituted in consequence of his misrepresentations, it appears that there are altogether three hundred and twenty five Clergymen in Upper Canada, of whom there are only thirty-one Ministers of the Church of England. Yet on the recommendation of the reverend gentleman, His Majesty's Ministers were to establish three hundred Ministers of the Church of England at the public expense, and had endowed an University, for the education of all classes, where the Professors are required to belong to the sect which comprises only a tenth part of the population. Of other Clergymen, there are one hundred and seventeen Methodists, forty-five Baptists, and about forty or fifty of other denominations. So far from all of them having been educated in the United States, one hundred and thirty-three of the Methodists and Baptists, though only eleven of the Ministers of the Church of England, were all born and educated in His Majesty's dominions. These were the slanderous representations made by Dr Strachan against so respectable a body as the Clergy of Upper Canada. The Clergy alone do not deem themselves aspersed by these statements: their congregations also, and justly, considered themselves calumniated. The petitioners object to any sect being particularly selected for preference and ascendancy, and they beseech the House that Christians of all denominations may enjoy the blessings of religious liberty and, according to their talent, worth and knowledge, be encouraged and protected. How utterly false the statements of Dr Strachan are respecting the character and conduct of the Methodists, may be inferred from the answer he has received as to his assertion, that a large proportion of the members of the Assembly belong to the Church of England. The Legislative Assembly of Upper Canada have lately agreed to this effect— 'That the number of members of the Protestant Episcopal Church appears but very small, in proportion to the number of other Christians, notwithstanding the pecuniary aid received by that body from the Society in England, and its pretensions to the monopoly of the Clergy Reserves.' This resolution was supported by twenty-seven members out of the thirty who compose the Assembly. It is a complete denial of the statements of Dr Strachan, which are shown to be unfounded in every respect, and unworthy of belief. The reverend gentleman, in his letter, said that there was a tendency among the people of Upper Canada to follow the Church of England; and, on the faith of this representation, he has obtained an annual stipend to build churches for the use of only one-tenth of the population. He is acting altogether in a manner to excite the strongest feelings of the Colony against him and the Establishment to which he belongs. The peace of Upper Canada has been endangered by the conduct of Archdeacon Strachan. His conduct has produced more discontent than any other subject whatever. This reverend gentleman fills his letter with attacks upon the other religious denominations, and what has been the consequence? There is not a county in the Province that did not declare the letter to be a slander; and the House of Assembly, by a majority of 27 to 3, declared it to be gross and slanderous libel on the Province. And did the Government call this man to account? No—this individual was allowed to remain, and no interference on the part of the Attorney General was made, although if a Dissenter, or any person belonging to any other sect had written such a letter as that of this Archdeacon, an *ex-officio* information would have been inevitable. This man ought not to be allowed to go on and create discontent throughout the Province."

A copy of the Charter having been transmitted by the Lieutenant-Governor to the Legislative Assembly, its provisions created much dissatisfaction, and were severely animadverted on. The House ordered a copy of the Report of their Committee, with the evidence which they had procured, and the Charter framed in accordance therewith, to be transmitted to the Imperial Parliament; and, at the same time, adopted the following Address to the King, which was passed by a majority of twelve in a House composed of thirty members:—

"TO THE KING'S MOST EXCELLENT MAJESTY.

"Most Gracious Sovereign,

"We, your Majesty's dutiful and loyal subjects, the Commons of Upper Canada, in Provincial Parliament assembled, humbly beg leave to represent to

your Majesty, that we have seen, with equal surprise and regret, a Letter and Ecclesiastical Chart, addressed by the Honourable and Venerable Doctor Strachan, Archdeacon of York, a member of your Majesty's Legislative and Executive Councils of this Province, to the Right Honourable R. J. Wilmot Horton, Under Secretary of State for the Colonies, as they are inaccurate in some important respects, and are calculated to lead your Majesty's Government into serious errors.

"We beg leave to inform your Majesty, that of your Majesty's subjects in this Province, only a small proportion are members of the Church of England; that there is not any peculiar tendency to that Church among the people, and that nothing could cause more alarm and grief in their minds than the apprehension that there was a design, on the part of your Majesty's Government, to establish, as a part of the State, one or more Church or denomination of Christians in this Province, with rights and endowments, not granted to your Majesty's subjects in general of other denominations, who are equally conscientious and deserving, and equally loyal and attached to your Majesty's Royal Person and Government. In following honestly the dictates of their conscience, as regards the great and important subject of religion, the latter have never been conscious that they have violated any law or obligation of a good subject, or done any thing to forfeit your Majesty's favour and protection, or to exclude themselves from a participation in the rights and privileges enjoyed by your Majesty's other subjects.

"We humbly beg leave to assure your Majesty, that the insinuations in the Letter against the Methodist Preachers in this Province do much injustice to a body of pious and deserving men, who justly enjoy the confidence, and are the spiritual instructors of a large portion of your Majesty's subjects in this Province. We are convinced that the tendency of their influence and instruction is not hostile to our institutions, but on the contrary is eminently favourable to religion and morality—that their labours are calculated to make their people better men and better subjects, and have already produced in this Province the happiest effects.

"While we fully and gratefully appreciate your Majesty's gracious intention in granting a Royal Charter for the establishment of an University in this Province, we would beg most respectfully to represent, that, as the great body of your Majesty's subjects in this Province are not members of the Church of England, they have seen, with grief, that the Charter contains provisions which are calculated to render the institution subservient to the particular interests of that Church, and to exclude from its offices and honours all who do not belong to it. In consequence of these provisions, its benefits will be confined to a favoured few, while others of your Majesty's subjects, far more numerous and equally loyal and deserving of your Majesty's paternal care and favour, will be shut out from a participation in them. Having a tendency to build up one particular Church to the prejudice of others, it will naturally be an object of jealousy and disgust. Its influence as a Seminary of learning, will, upon these accounts, be limited and partial. We therefore humbly beg that your Majesty will be pleased to listen to the wishes of your Majesty's people in this respect, and to cause the present Charter to be cancelled, and one granted, free from the objections to which, emboldened by a conviction of your Majesty's paternal and gracious feelings to your loyal subjects in this Province, as well as by a sense of duty to the people, and a knowledge of their anxiety upon the subject, we have presumed to advert.

"JOHN WILSON, *Speaker*

"*Commons House of Assembly,*
"20th March, 1828."

The universal excitement throughout the Province, caused by the arbitrary attempt to establish a dominant Church, supported by a privileged University, among a people in the last degree hostile to their pretensions, at length attracted the attention of the British Government, and on the motion of Mr Huskisson, then Colonial Secretary, in compliance with the wishes expressed in the Canadian petitions, a Committee of the House of Commons was appointed to investigate the whole subject of the Civil Government of the Province In the spirited debate which took place on this motion several distinguished members expressed their strong disapprobation of the principles of the Charter of King's College and inveighed against the absurdity of forcing the exclusive restrictions of the English Universities upon a people who had invariably opposed the intrusions of law into the domain of conscience and religious opinion Sir James Mackintosh the gifted philosopher, statesman, and historian, on that occasion, observed

"Endowments may be sacred, when they are guarded by centuries of existence, and by a long and well-known system of law, but I do not see any reason for making them now in a new land, where the religion is different from that of the Church to which they are granted Neither do I understand the regulations which have been made for the new College of Upper Canada. I see with astonishment that in a country where the majority of the people do not belong to the Church of England, the Professors must all subscribe the Thirty-nine Articles; so that if Dr Adam Smith were alive, he could not fill the Professor's Chair of Political Economy, and if Dr Black were alive, he would be excluded from the Chair of Chemistry In short, these regulations would exclude almost all the great teachers and illustrious men of the last age, were they in existence, and that too in a country where no such thing as a Test Act is known I do not know what will be the consequence of such an arrangement. I cannot see by what process of the human mind it can happen that the inhabitants of Canada shall like a College which is foreign to the institutions of America, which is in favour of a Church which is not of their religion. It is a bad augury I think, for the administration of the colony, and it confirms an opinion that I have long entertained, that it is not fitting for us here to make a charter for a colony which is some thousand miles distant from us. If a faction in the colony should have made the regulations of which I complain, we ought to interfere to prevent its operation."

On the same occasion, Lord Stanley, the present Secretary for the colonies, thus expressed his views

"I should be ready to contend, if I were now sitting on the committee, that if any exclusive privileges be given to the Church of England the measure will be repugnant to every principle of sound legislation" "I will not enter further into it at the present moment, except to express my hope that the House will carefully guard Canada against the evils which religious dissentions have already produced in this country and in Ireland where we have examples to teach us what to shun We have seen the evil consequences of this system at home God forbid we should not profit by experience and more especially in legislating for a people bordering on a country, where religious intolerance and religious exclusions are unknown It is important that his Majesty's Canadian subjects should not have occasion to look across the narrow boundary which separates them from the United States, and see any thing there to envy We should bear in mind the principles of a liberal and comprehensive policy, and be checked by none of those considerations, which at home, perhaps, it is necessary to observe with respect to previous interests and existing prejudices. There we may begin *de novo*—there we may follow the most unfettered liberality—the soundest and most prudent policy we can adopt. We may thus preserve our friendly relations with Canada,

both as the Parent State while she remains a Colony, and when, in the course of ages, she becomes independent as an ally."

During the course of their investigations, the Charter of King's College was brought under the notice of the Committee, and, as a modification of its provisions had been warmly urged in all the petitions from the Upper Province, the Committee took great pains to ascertain accurately the Ecclesiastical Statistics of the country. Proceeding upon the voluminous evidence which they collected from persons of unquestionable character, they reported that the most important assertions of the petitions had been completely proved, and the result of their general labours was to suggest many liberal views of policy and important changes in the administration of affairs. On the subject of King's College they entered cordially into the views of the petitioners, and as the Report of this Committee continued for many years to form the text-book by which the Colonial Ministers professed to be guided in transmitting their instructions to the successive Governors, it may be proper to quote from its recommendations in reference to the University.

"The attention of the Committee having been drawn to the establishment of the University of King's College at York, they thought it their duty to examine the Charter granted to that College. Of the great advantage which the establishment of a College, for the purposes of general education in Upper Canada, is likely to confer upon the Province, the Committee entertain the strongest conviction; they lament only that the institution should be so constituted as materially to diminish the extent to which it might be useful.

"It cannot, they think, be doubted, as the guidance and government of the College is to be vested in the hands of the Members of the Church of England, that in the election of Professors a preference would inevitably be shewn to persons of that persuasion, and in a country where only a small proportion of the inhabitants adhere to that Church a suspicion and jealousy of religious interference would necessarily be created."

The Committee then go on to recommend the establishment of two Theological Chairs for the Students of the Churches of England and Scotland respectively, but with respect to the President, Professors, and all others connected with the College, no religious test whatever should be required.

"That in the selection of Professors no rule should be followed, and no other object sought than the nomination of the most learned and discreet persons, and that (with the exception of the Theological Professors) they should only be required to sign a declaration, that as far as it was necessary for them to advert in their lectures to religious subjects, they should distinctly recognise the truth of the Christian Revelation, but would abstain altogether from inculcating particular doctrines."

It has often been urged by the High Church party that the people of Canada being unable to appreciate the advantages of the religious and intellectual discipline pursued at Oxford and Cambridge, any attempt by them to interfere with the Constitution of King's College would be in the highest degree dangerous and unbecoming. Some guarantee for the safety and policy of the modifications demanded, may, however, be found in the names of those individuals by whom this Report was framed, and as the foundation of much of their subsequent fame was formed at the revered Educational Institutions of England, it is probable that the meritorious parts of their system were not overlooked. Among the Committee were Mr Huskisson, Mr Wynn, Sir James Mackintosh, Mr Wilmot Horton, the Solicitor-General, Mr Vesey Fitzgerald, Mr (now Lord) Stanley, Mr Stuart Wortley, Lord Francis Leveson Gower, Mr Baring, Lord Viscount Sandon, and Mr Labouchere.

When the Report was laid before the House of Commons, Sir George Murray—a consistent Conservative and a prominent friend of the Church—had succeeded to the Colonial Department—and as he had personally visited Canada, and was therefore in a position to form a fair judgment of the character of the institutions which might be best adapted to the circumstances of the country, his opinion may be entitled to some weight.

> "It appears," he said, "that the Committee object to the Constitution of the College, and recommend that in the selection of Professors no rule shall be followed, and no other object sought than the nomination of the most learned and discreet persons. In this view I concur. I think it would not at all interfere with the religious opinions of the Students that Professors should be chosen without reference to the Christian denomination to which they belong."

The opinion of the Colonial Secretary thus frankly avowed was acted upon practically in his instructions to the Lieutenant Governor, under whose notice he brought "all the points recommended by the Committee." In his despatch to Sir P. Maitland, dated 29th Sept., 1828, he observed :—"It would be deservedly a subject of regret to his Majesty's Government, if the University, recently established at York, should prove to have been founded upon principles which cannot be made to accord with the general feelings and opinions of those for whose advantage it was intended." At the same time he suggested that any alterations in the Charter should be made through the representatives of the people, and in the mean time he directed that its operation should be suspended till such modification of its provisions was made. Further evidence of Sir George Murray's views on the subject of the University is obtained from a speech which he subsequently, and after he had quitted office, delivered in the House of Commons, and in which the subject of King's College is thus incidentally mentioned :—

> "I have been desirous to remove as much as possible every grievance which pressed upon any portion of His Majesty's subjects on account of their differing upon points of religious belief from the doctrines laid down by the Church of England. I wish at all times to act upon the principles opposed to those of exclusion on account of religious differences of opinion. I could quote an instance indeed, in which, in my public capacity, I carried that principle into effect. A short time before I came into office as Secretary for the Colonies, a Charter had been granted for founding a University at York in Upper Canada, which was to be established upon the exclusive principle of giving admission to a share in the government of it only to members of the Established Church. I objected to this. *The principle of exclusion once recognised in Canada under a Charter of the Crown, I thought we would be sowing in the new world the seeds of those very evils which had given rise to so many dissensions and occasioned so many conflicts in the old.* I therefore urged that instead of establishing the College at York, on exclusive principles, a College should be founded at Montreal,

in which no distinction should be made on account of religious differences of opinion. I was led to fix upon Montreal, partly on account of its central situation, and partly because it so happened that a sum of money had been left by a benevolent individual, for the purpose of forming a Protestant Seminary for education at that place. This sum I wished to unite with the other for the purpose of establishing a College at Montreal, for all classes of his Majesty's Canadian subjects, without any exclusion on account of religious opinions.

When Sir John Colborne assumed the administration, towards the close of the year 1828, the excitement on the subject of the University had gathered strength throughout the Province, and his Excellency soon perceived that it would be absolutely necessary for the peace of the country to effect some settlement of this irritating matter. The College Council had, in the mean time, been formed under the Charter, and as the materials of which it was composed, closely reflected the character of those who then monopolized the patronage of the Crown, the most determined resistance was made to the proposed modifications. In carrying out the instructions of the Colonial Secretary, to submit the Charter to the Legislature, it appeared to the Lieutenant-Governor to be advisable in the first instance to secure the co-operation of the College Council. The influence of that body in the Legislative and Executive Councils being paramount, it was easy to foresee that any measure of a liberal tendency which might be passed by the Assembly, would be defeated in the Legislative Council,—a majority of the members having seats at the Council Board of the University. Accordingly on the 13th Dec., 1828, a few days after he had entered upon the administration, his Excellency convened the College Council, and anxiously urged upon them the necessity of surrendering the Charter, which had been obtained upon misrepresentation and concealment of facts. He referred them to the Report of the Select Committee of the House of Commons, which characterized the Charter as a grievance—alluded to the positive instructions which he had received from his Majesty's Ministers to submit the Charter to the Legislature—invited the co-operation of the Council, in effecting the amendments; and he emphatically declared, that in the event of their assistance being withheld, one stone should not be put upon another, and that he would concur in no measure to further the Institution, while the obnoxious provisions of the Charter remained unaltered. In his speech, on opening the Parliament, 9th January, 1829, alluding to his determination on the subject of the University, he said: "Measures will be adopted, I hope, to introduce a system in that Seminary, that will open to the youth of the Province the means of receiving a liberal and extensive course of instruction."

In consequence, however, of the persevering resistance of the College Council, and their powerful influence in the administration, no measure for the amendment of the Charter was submitted to the Legislature, and the House of Assembly, thus disappointed in their expectations, after some delay, addressed his Excellency on the subject, and with the view of possessing themselves of the necessary information, requested to be furnished with a statement of the funds which had been obtained and set apart for the erection of the University, and of the appropriations made from and out of these funds. On 20th March, 1829, a set of resolutions, embodying the sentiments of the members, on the subject of the University, were severally put and *unanimously* carried.

The importance of these resolutions as indicating the wishes of the country at that time, is increased in consequence of the principles contained in them having been, at a later period, adopted as the foundation of a legislative measure which passed through the Assembly, but was defeated in the Legislative Council.

"*Resolved*—That the thanks of this House are due to his Majesty for his gracious intentions in erecting and endowing a University in this Province.

"*Resolved*—That much erroneous information has been communicated to his Majesty's Government upon that subject, under which misinformation this House apprehends the Charter was granted, with provisions not suited to the conditions and wishes of the people for whose benefit it was intended.

"*Resolved*—That the provisions requiring the President of the said University to be a Clergyman in Holy Orders of the United Church of England and Ireland, and to hold his office during pleasure, is highly inexpedient, because in the only Seminary of general learning in the country all collegiate offices and literary rewards should be conscientiously awarded according to moral and intellectual merit, should be enjoyed under no dependant tenure, and should be held forth as incentives to all candidates for academic honours, without making such honours subservient to favoritism.

"*Resolved*—That it is for the above reasons highly inexpedient that the Archdeacon of York, for the time being, by virtue of his office, should be at all times President of the said University.

"*Resolved*—That the provision requiring the President and the seven Professors constituting the College Council to be members of the said Established United Church, and to subscribe the Thirty nine Articles, is highly inexpedient.

"*Resolved*—That the Chancellor, President, and members of the Council, the Professors and other teachers of the said University, ought, after the organization of the same, to be elected by a Senate, composed of the members of the Council, and others who have taken a degree in the said University above Bachelor of Arts, having their names on the Books of the College, such election to be made from the graduates from the said University, or from the graduates from the Universities of England, Ireland, or Scotland, of sufficient standing in their respective Universities to be candidates for such office or trust.

"*Resolved*—That it is inexpedient that the degree of Doctor of Divinity should be confined to those who subscribe to the Thirty nine Articles of the said Established and United Church, but that it should be obtainable by all graduates, who, professing the Christian faith, shall, after due and impartial public examinations in the public Schools of the said University, evince the classical, biblical, or other learning and qualifications, proper to be acquired by candidates for such an honour.

"*Resolved*—That it would be expedient if the teaching of Doctrinal Divinity were confined to the examination of the Students, by questions put by the Professor out of the Bible, in the same manner as the classes in the University of Cambridge are examined upon and taught any science out of standard authors, leaving discretionary latitude to the Professors, only, in lecturing on biblical criticism, theology, evidences of Christianity, sacred history, and whatever collateral branches of learning may be appointed for candidates for Holy Orders, by which means would be obviated the principal difficulties apprehended from the same Professors being the instructors of Students professing the faith of different denominations of Christians.

"*Resolved*—That whatever in the said Charter in any degree gives a sectarian character to the said University, ought to be wholly done away.

"*Resolved*—That with the exception of the exclusive and sectarian principles and unequal distribution of wealth prevailing in the Universities of Oxford and Cambridge, it is highly expedient to follow their institutions and modes of instruction, making from time to time such modifications as experience may point out.

"*Resolved*—That without the patriotic, disinterested, and impartial conduct of those to whose wisdom and management the infancy of this Institution shall be confided, without a strict observance of economy in the whole system, without inducing from Great Britain and Ireland Professors of acknowledged learning and worth, liberally paid, but not with that extravagance which would merge the rewards of honour in the sordid expectation of pecuniary gain, and without making grandeur of schemes and appearance yield to immediate practical and unostentatious utility, the University cannot gain public confidence, or realize the gracious intentions of His Majesty."

These Resolutions were presented to his Excellency with the following Address:

"We, His Majesty's dutiful and loyal subjects, the Commons of Upper Canada in Provincial Parliament assembled, humbly request your Excellency's favourable attention to the Resolutions accompanying this Address, and we farther humbly thank your Excellency for the interest your Excellency has manifested for the promotion of education in this Province, in a way suited to the wishes, feelings and genius of the people."

The Lieutenant-Governor thanked the Commons for this Address, and assured them that he would not fail to give immediate attention to the Resolutions which accompanied it. The Session having forthwith terminated, no farther proceedings took place in reference to the University.

Before the opening of the next Session, Sir John Colborne applied himself with energy, in obedience to the instructions which he had received from His Majesty's Ministers, to effect a modification of the Charter. Anxious still that this should be done with the friendly co-operation of the College Council, and aware that without that co-operation, any attempt to liberalize the Institution would be defeated in the Legislative Council, he renewed his urgent entreaties to have the Charter surrendered. His exertions, however, having proved unavailing, he was at length compelled to suspend the operations of the Charter, and to direct his energies to such ameliorations in the defective system of Education, which then prevailed in the Province, as would best remedy the evils which the obstinate conduct of the College Council might inflict on the country. In opening the Parliamentary Session, on 8th January, 1830, he thus cursorily alluded to the opposition which he had received from that body, and to the defective state of Education throughout the Province:

"The delay that may take place in revising the Charter of the University, or *in framing one suitable to the Province, and to the intention of the endowment,* must, in fact, under present circumstances, tend to the advancement of the Institution, as its use depends on the actual state of Education in the Province."

The Address of the House of Assembly in answer to his Excellency's Speech, thus met his allusions to Education

"We are glad to find that your Excellency still anticipates a modification of the Charter of King's College, which as at present constituted, is undeserving of public patronage, and likely to foment sectarian jealousies, and prove equally injurious to the purity of our religion and to the liberties of our people

"While we are willing to support a College for instruction in the professions, and in the higher branches of science, we feel it to be a primary and more imperative duty to provide for the general extension of the means of Education among the people in every township. But we concur with the opinion expressed by your Excellency, that dispersed as the population is over an extensive territory, a general efficiency in the Common Schools cannot be expected, particularly while the public salaries of the Masters, and the small remuneration which their patrons in the present condition of the country can afford to give, will not admit of their devoting their whole time to their useful calling

"From these considerations we feel the increased necessity and duty of securing, besides the sum already provided by law, a more equal and just distribution of the proceeds arising from the lands reserved for Education, from which resources the people have hitherto derived no advantage"

The House of Assembly at the same time passed the following Resolutions, declaratory of its determination to resist the exclusive policy which had evinced itself on the part of the High Church party composing the Administration

"*Resolved*—That the Christians of various denominations in this Province have been deeply wounded in their feelings by the false and calumniating misrepresentations, made for the purpose of establishing an exclusive and proselyting system, which it has hitherto been attempted to strengthen and extend by rendering subservient to it the patronage of the Executive Government, and the unjust appropriation of the School Reserves for the support of a University, against the sectarian character of which this House can never cease solemnly to protest, as they already have done

"*Resolved*—That there justly is, in the minds of the people of this Province, a strong and settled aversion to a dominant Church connected with Government, and upheld by that Government in a claim to a monopoly of the Clergy Reserves, and to the enjoyment of peculiar privileges, to the exclusion and prejudice of various denominations in this Province"

Notwithstanding the symptoms of weakness and vacillancy which frequently exhibited themselves in Sir John Colborne's administration of the Government, it is but just to admit, that his personal views and designs, when unobstructed by the influence of the baneful oligarchy which at that time incubated on the Province, evinced a sincere desire for the prosperity of the country To the cause of education in particular he devoted much of his attention and energy, and it is probable that he might have succeeded in effecting a considerable amelioration of the defective system which then prevailed, had his plans not been frustrated and overruled by the illiberal and fatal opposition of Dr Strachan and his intolerant party The provisions which had been from time to time made by the Legislature for the diffusion of instruction among the people were rendered completely nugatory by "the scheme," which the Archdeacon of York, in a moment of incautious vanity, divulged to the Society for the Propagation of the Gospel He had truly been "*instrumental in establishing a scheme in Canada, by which the education of the whole population was virtually under the direction of the Church*,"—and from which, he might have added, the people generally derived scarcely a larger amount of benefit than the pleasant gratification of seeing the pecuniary necessities of the Venerable President of the Educational Board relieved by an annual stipend of £300 from the Parliamentary grant. It formed no part of "the scheme" of this disinterested patron of learning, to permit any of the classes who contributed so largely towards the maintenance of the Schools to participate in their superintendence The exclusive control was monopolised by the members of the *Episcopal* Church, and the appointment of Trustees from one communion alone had occasioned so much jealousy and bitterness, that the Schools had sunk into a deplorable state of inefficiency which reflected deep disgrace upon the Province

Sir John Colborne was fully alive to the defects and corruptions under which the system laboured, and to the absurdity of establishing a University for the higher branches of learning, while the children of the yeomanry were exposed to the evils and dangers of almost unmitigated ignorance. It was indeed abundantly apparent that the country, as it then existed, would derive a greater amount of benefit from the general diffusion of the means of instruction, and that the objects of the Royal Grant would be more effectually promoted if a liberal education could be placed within the reach of the people, than if the endowment were applied to the establishment of a great metropolitan seat of learning, for which the youth of the Province were not fitted by a proper preparatory course The first efforts of the Lieutenant-Governor were therefore directed to an extension of the Common and District Schools, and to a more liberal system of management and tuition But these benevolent designs did not meet the approval of Dr Strachan and his party, and his Excellency was compelled to succumb to their superior influence Unwilling however, to relinquish his plans altogether, he took an intermediate course and submitted to the College Council a proposal for the establishment of an Academy of a superior class at York, which might at least prepare the children of the higher ranks for the advantages of the University. This proposal having met with no opposition, his Excellency, by Message, submitted his plan to the House of Assembly

"The Lieutenant-Governor has no doubt that it would be deservedly a subject of regret to his Majesty's Government if the principles on which the University is founded cannot be made to accord with the *general feeling and opinion of those for whose advantage it was intended* and he believes that the first change in the Charter which should be recommended, and which would conduce more than any other to its becoming eminently useful to the Province, is the connecting the Royal Grammar School with King's College, in such a manner that its Exhibitions, Scholarships, and chief support may depend on the funds of that endowment

"The advantages that will result from an Institution conducted by nine or ten able masters, under whose tuition the youth of the Province could be prepared for any profession are indisputable and if such a School were permanently established, and *the Charter so modified that any Professor shall be eligible for* the *Council*, and that the Students in the College shall have liberty and faculty of taking degrees in the manner that shall hereafter be directed by the statutes and ordinances framed by his Majesty's Government, the University must flourish, and prove highly beneficial to the Colony."

This proposal having been acceded to, the Royal Grammar School was superseded, and Upper Canada College was opened on 4th January, 1830, for the purposes of tuition. An endowment of 60,000 acres was afterwards procured for its support from the residue of the general School Lands, together with the site of the College, and some valuable town lots, and by means of the aggregate funds that were expected to accrue from these sources, and from the fees payable by the Students, it was fully expected that under a proper system of management, a sufficient income would be derived for the proper maintenance of the Establishment. How far these expectations have been realized will form a matter for future enquiry.

CHAPTER IV.

THE AMENDED CHARTER.

The reform of the University now became intimately connected with another question which had already created much excitement and irritating discussion, and which was destined to have a material influence on the future peace and welfare of the Province. By the Imperial Act 31, Geo. III., ch. 31, one seventh of the granted lands in Upper Canada had been set apart for the support of a Protestant Clergy. This ecclesiastical provision had, under the phrase of "a Protestant Clergy," been heretofore limited by the Government to the United Church of England and Ireland. A claim was at length put in by certain members of the Church of Scotland to a share of the provision, and this claim was afterwards assumed and insisted on by the other Protestant denominations in the Province. The appropriation by the Government exclusively to one Church, or the extension of it to others, thus became a question of almost absorbing public interest. The House of Assembly repeatedly offered strong remonstrances against any favour or assistance on the part of the Government to one or more religious denominations which was not equally bestowed upon all, and the principles of religious supremacy and exclusion in favour of the Church of England, contained in the Charter of the University, appeared to the members of that body as a part of a system conducive to the extension and perpetuation of an injurious policy, inconsistent with that perfect equality of rights and privileges to which it was thought Christians of all denominations in the Province were entitled. In conformity with these views the Assembly on 12th March, 1831, caused the following address to be prepared and transmitted.

"TO THE KING'S MOST EXCELLENT MAJESTY.

"Most Gracious Sovereign,—

"We, your Majesty's dutiful and loyal subjects, the Commons of Upper

Canada, in Provincial Parliament assembled, beg leave most humbly to submit to your Majesty, that by an Act of the Parliament of Great Britain, 31st Geo III, one seventh of the lands of this Province was set apart for the support of a Protestant Clergy

"That under that act appropriations have from time to time been made, and which appropriations are, in this Province, known by the name of the 'Clergy Reserves,'—that these appropriations having been generally made in lots of two hundred acres throughout the several Townships of this Province, the value of the same has been much enhanced by the settlement of the country, and principally from the improvement of the lands in the neighbourhood of such appropriations, by the labour of inhabitants composed of various denominations of Christians —that these Reserves being so interspersed with the lands of actual settlers, have materially retarded the improvement of the country —that by an act passed in the reign of his late most gracious Majesty, provision was made for the sale of a portion of these Reserves —that it is unjust as well as impolitic, to appropriate the said lands to the support of any one Church exclusively, and it is extremely difficult, if not altogether impracticable, to apportion or divide the same among the Clergy of all denominations of Protestants —that a large majority of the inhabitants of this Province are sincerely attached to your Majesty's person and government, but are averse to the establishment of any exclusive or dominant Church,—that this House feels confident, that to promote the prosperity of this portion of your Majesty's dominions, and to satisfy the earnest desire of the people of this Province, your Majesty will be graciously pleased to give the most favourable consideration to the wishes of your faithful subjects —that to terminate the jealousy and dissension which have hitherto existed on the subject of the said Reserves—to remove a barrier to the settlement of the country, and to provide a fund available for the promotion of Education, it is extremely desirable that the said lands so reserved be sold and the proceeds arising from the sale of the same, placed at the disposal of the Provincial Legislature, to be applied exclusively for that purpose We therefore humbly pray, that your Majesty will be graciously pleased to recommend to your Majesty's Parliament of Great Britain and Ireland to pass an act to authorise a sale of the Clergy Reserves remaining unsold, and to enable the Legislature of this Province to appropriate the proceeds thereof in such manner as may be considered most expedient for the advancement of Education

"We also most humbly beg leave to submit to your Majesty that while we fully appreciate the gracious intention of our late revered Sovereign to promote education, by granting a Royal Charter for the establishment of an University in this Province, we feel it incumbent on us to represent, that as the great majority of your Majesty's subjects in this Province are not members of the Church of England, it is matter of regret that the Charter contains provisions which are calculated to exclude from its principal offices and honours all who do not belong to that Church

"In consequence of these provisions the benefits of the Institution will be confined to a few individuals of one religious denomination, while others of your Majesty's subjects, equally loyal and deserving will be excluded from participating in advantages which should be open to all Its influence, as a Seminary of learning on this account must be limited and will be looked upon with jealousy by a large majority of the inhabitants of this Province We therefore humbly pray that your Majesty will be graciously pleased to cause the Charter of King's College to be cancelled, and to grant another free from the objections to which our duty to the people of this Province has induced us to advert."

This address was transmitted to the King by Sir John Colborne, who, on

receiving it, thus announced to the House his instructions on the subject of the University

"Gentlemen,—I will forward this Address to the King immediately. It may, however, be satisfactory to you to receive the information, that I have reason to believe that either the exclusive provisions considered exceptionable in the Charter of King's College have been conceded, or that such arrangements have been decided on by his Majesty's Government, as will render further application on this subject unnecessary

"A Charter, solemnly given, cannot be revoked without much delay and circumspection, but his Majesty's Ministers have long directed their attention to the great advantages which the Province will derive from an University being established on principles that may be approved of by every good and enlightened person"

Meanwhile the excitement on the subject of the University continued unabated throughout the country. At a public meeting held at York, on 10th December, 1830, a Petition to the British House of Commons was adopted, and before being transmitted, received upwards of 10,000 signatures. This Petition embraced the subject of the Clergy Reserves, and prayed a modification of 'the Charter of King's College, established at York, in Upper Canada, so as to exclude all sectarian tests and preferences, and to appropriate the proceeds of the sale of lands heretofore set apart for the support of a Protestant Clergy, to the purposes of general education and various internal improvements.'

An Agent was appointed to carry this Petition to London, and on the occasion of its being presented to the House of Commons, Sir George Murray observed,—

"I trust that the sentiments which I have always entertained upon the subjects to which this Petition relates are sufficiently well known to the House. *I conceive that nothing can be more unfortunate for any State than that political distinctions should be founded on differences in matters of religion. I believe that those distinctions can never arise, except when religion has been made subservient to the selfish interests and to the unholy passions of men.* I agree entirely in the objection which has been taken to that part of the Charter of King's College, which introduces a distinction on the score of religion. While I was in office I suspended the operations of the Charter, *having it in contemplation to abolish entirely that distinction, and had I remained in office, I should certainly have done so.*"

Copies of the Canadian petition to the House of Commons, and of the proceedings and resolutions of the House of Assembly, were at the same time laid before the Colonial Secretary.

These proceedings had the effect of turning the immediate attention of the British Government to the danger of the exclusive policy which had been pursued under the erroneous statements and evil counsel of the Archdeacon of York. His Majesty's Ministers at once saw the necessity of concession, and endeavoured to retrace the false step that had been made, by giving their formal sanction to the modification which had been proposed by the Assembly. With this view his Excellency Sir John Colborne was instructed to bring the matter before the College Council, and to insist upon a surrender of the Charter, in order that it

might be modified by the Provincial Parliament, in such a manner as would adapt it to the situation of the country and the wishes of the people

Acting upon these instructions, the Lieutenant-Governor convened the College Council on 2nd November, 1831, and laid before them a Despatch from Lord Goderich, then Colonial Secretary—in which his Lordship referred at considerable length to the original purposes of the grant, and the design of the British Government in establishing a University He observed that "it is greatly to be regretted *that any thing in the constitution of the establishment should have tended to counteract, if not defeat this laudable design, and practically deprive the Province of the advantages anticipated*" "*It cannot be denied,*" he continued, "*that the exclusive and restrictive character given to King's College University has had this effect*" His Lordship then alluded to the suggestions of the Committee of the British House of Commons in 1828, which had been transmitted by his predecessor in the Colonial Office, with the view of their forming the basis on which the constitution of the University should be established, and he earnestly recommended that the course then advised by his predecessor should now be pursued. He also signified *his approval of the Resolutions adopted by the House of Assembly in 1829*, quoted in the preceding chapter, and insisted that the College Council should immediately surrender the Charter that it might undergo such modifications as the Parliament of Upper Canada should determine, but in requiring such surrender he pledged himself to the Council that the endowment should be applied to no other purpose than that of education.

The advice thus frankly offered, and the request contained in the despatch of of the Colonial Secretary, were obstinately declined by the College Council, who, in a lengthy report, framed in answer to the despatch, maintained their position with a reckless temerity, which, at the present day, might excite surprise, were the fact not sufficiently explained by the overwhelming influence which its members possessed in the Executive and Legislative Councils of Upper Canada. Hitherto the obstacles interposed by the College Council—who had been long the prominent leaders of the High Church party—to the diffusion of general instruction, had proved most disastrous to the country It was quite obvious to every one, that the concentration of means accruing from a productive endowment on an exclusive Seminary beneficial only to a few, so long as the elementary Schools, owing to the unproductiveness of their endowment from causes beyond control, were in a state of comparative destitution, was a proceeding not only inverting the order of the entire scheme, but eminently calculated to create a dissatisfied and invidious feeling on the part of a large portion of the community So long indeed as means were wanting to confer elementary instruction commensurate with the increasing demands of the country, the prior formation of a metropolitan seat of learning, irrespective of its exclusive character and constitution, was viewed with jealousy and disfavour even by those who, under more propitious circumstances, would have hailed its establishment and would have been well satisfied to see it in active operation. The functions of the General Board of Education—which for nearly eight years had been a libel on the name that it bore—ceased in 1832, and with its demise the salary of the Venerable President, which during the same period had yielded him no less a sum than £2,250, also ceased to be exigible. The Archdeacon of York, however, whose genius was ever fertile in expedients, and whose zeal in the cause of education has always borne an affectionate approximation to the pecuniary advantages which he has derived as a "Patron of Learning," naturally directed his restless energies to the University, as a compensating source of emolument. Holding the office of President, with the exclusive honour of being the only salaried member of the Council, he regarded with dismay every modification of the Charter which could have the most remote tendency to endanger his sinecure, an effect by no means unlikely to have followed from the admission of the Dissenters to a share in the government, and a conscientious administration of the affairs of the Institution

So long as this serious obstacle remained, all conciliatory attempts to obtain the consent of the College Council to the modifications required by the people of Canada signally failed, and the Colonial Secretary at length became convinced that no concession would be made to which the Council were not driven by the last necessity The Archdeacon of York had previously distinguished himself as an energetic and powerful opponent to the formation of the Canada Company and through his zealous interference its operations had been materially retarded It was at length, however, agreed, on the understanding that his personal opposition to the Company should cease, that an annuity of £1 000 for 16 years should be given from the funds of the Company in aid of the University Buildings. This grant had been paid for four and a half years, but was suspended by Lord Goderich—who penetrated the design of the College Council to maintain their position so long as they were provided with available funds,—until the *Legislature* should pass a Bill amending the Charter In the despatch of 5th July, 1832, by which he suspended the grant from the Canada Company he placed the remodelling of the University entirely in the hands of the Provincial Parliament, whose claim he distinctly recognised "to exercise the management of the territorial grants assigned for the purposes of education, it being assumed, from their having in questions of this nature the deepest share of interest, that they are therefore the most competent to judge of what is best adapted to the progressive wants and wishes of the community which they represent." His Lordship further observed, that "*when a change of this nature is desired by the inhabitants themselves, and is called for by an address from their representatives, I am of opinion that if there were nothing else to be considered than the accomplishment of the immediate object, it would be desirable to comply with wishes which have been so expressed*" Beyond enjoining that the funds of the endowment thus placed at the control of the Provincial Legislature should not be diverted from their governing object—the promotion of education—Lord Goderich did not think it expedient to prescribe any set regulations for the practical application of those funds his Lordship observing, "*that it would be worse than useless to destroy the grace of the concession which had been made, by attempting to clog it with objectionable conditions*"

The Despatch from which the above quotations have been made, was marked "Confidential;" but if any doubts remained as to the intention of the British Government on the subject of the University, they were satisfactorily removed by Lord Goderich's celebrated Despatch to Sir John Colborne of 8th November, 1832, which was laid before the Provincial Parliament. In reference to a proposal which had been made to place King's College on the list of constituent bodies enjoying the elective franchise, his Lordship thus expressed himself "You will observe that I do not here refer to an University constituted in the manner proposed in the original Charter of Incorporation. Every man in Canada, however, knows, *that so far from any anxiety having been felt by the King's Government to maintain that Charter against the wishes of the great majority of the people, every possible measure has been taken to refer to their Representatives the decision of the question, in what form and upon what principles the College should be founded.*" And in the same Despatch, after repudiating a policy which would consign the children of the yeomanry to ignorance, lest knowledge should render them independent in action and in thought, his Lordship proceeds: "On the contrary, there is no one object connected with every part of his Majesty's dominions, which his Majesty has more at heart than the diffusion of sound knowledge in the legitimate and most enlarged sense of that term. This is not merely the first and highest interest of society, but is essential to the right use and peaceable enjoyment of every other civil and social privilege." And he thus points to the constitutional remedy for the abuses of King's College which his Majesty's Ministers were now most anxious to see relieved of every sectarian restriction :—

"*The Legislature of Upper Canada have already been invited to consider in what manner the University can be best constituted for the general advantage of society*, and His Majesty has studiously abstained from the exercise of his undoubted prerogative of founding and endowing Literary or Religious Corporations, until he should obtain the advice of the Representatives of the people for his guidance in that respect." "All minor distinctions should be merged in a general union for this important end (the diffusion of Education), and at the head of that union the local Government should be found encouraging and guiding and to the utmost of its power, assisting all the efforts which may be made to create or to foster a taste for intellectual enjoyments and pursuits." "Confident in your own concurrence, and in that of the members of the Legislature in those views, *I cheerfully remit to you and to them the office of originating the necessary plans for reducing the general principle into a definite shape* requiring of yourself in the first instance only that you should quicken the attention of the Legislative Council and Assembly to this subject, should you have reason to apprehend that it is in danger of being overlooked or forgotten."

In opening the Parliament on the 19th November, 1833, His Excellency Sir John Colborne thus communicated his instructions to the Legislature :—

"The important subject of public Education, which has in several Sessions occupied much of your attention, demands your early notice and consideration, particularly the questions which relate to the revision of the system of Township Schools—the application of the proceeds of sales of School Lands for the support of superior District Schools, and the requisite extension of the Royal Charter under which the University is at present established. With respect to these points, and the immediate course which you may suggest to ensure the opening of the University, sanctioned by a Charter framed on more comprehensive principles than that which has been granted, there can be no doubt, that as the Province is fully prepared to reap the benefits which were intended to be conferred on it by the establishment of King's College,—*His Majesty will readily give effect to any measures proposed by you regarding its future government*, and the appropriation of School Lands that may tend to promote the purposes of the Institution, or add to the advantages which the Colony, under the blessing of Providence, enjoys, by facilitating the diffusion of Education among all classes."

To this address, the House of Assembly answered that they would "use diligence in considering and maturing the requisite extension of the Royal Charter under which the University is at present established and His Excellency's assurance, that His Majesty will readily give effect to any measures proposed by us regarding its future government, and the appropriation of the School Lands to meet the purposes of Education, is an additional proof of His Majesty's paternal care for the advancement of the most important interests of his subjects."

No Legislative measure affecting the constitution of the University was introduced into the Assembly during this Session but at length in the Session of 1834 35, a Bill to amend the original Charter was framed upon the principles contained in the Resolutions of the House in 1829, which had received the approval of the Colonial Secretary

The Bill proceeded on the preamble that, 'Whereas his present Majesty has been graciously pleased to satisfy through His Majesty's principal Secretary of State for the Colonies Earl Ripon, by his despatch of the 8th November, 1832, communicated to the Legislature by His Excellency by message that so far from any anxiety having been felt by His Majesty's Government to maintain the said Charter against the wishes of a great majority of the people, every possible measure has been taken to refer to their Representatives the decision of the question as to what form and upon what principles the said College should be founded.' The Bill then declared that from thenceforth it would not be necessary for the President and Professors to be members of the United Church of England and Ireland, or that they should subscribe the Thirty nine Articles.—That the Council should consist of twelve persons, one half of whom should be nominated by the Legislative Council, and the other half by the Legislative Assembly, and that they should hold their office for four years.—That the College Council should elect the Professors, Tutors, and Lecturers.—That the College Council should make rules and ordinances for the government of the University, subject to the approbation of the Chancellor.—That no rules or ordinances should be passed by the Council imposing on the Professors, Tutors, Lecturers, Scholars, Graduates, under-Graduates, Students, Servants, or others, any religious form or mode of worship, or in any way whatever restraining them from attending on the Sabbath whatever place of religious worship they chose.—That no religious test or qualification whatever should be required of the Chancellor, President, Professors, Tutors, Lecturers, Scholars, or other persons being candidates for any situation or honour in the College.—That there should not at any time be allowed to be within the College any public Professor, Lecturer, or Teacher of Doctrinal Divinity, according to the Articles of Faith professed by the United Church of England and Ireland, or according to the Creed or Faith of any other Christian or Religious Church whatever.—And that the College Council should not apply any of the funds belonging to the University to the support of any public Professor, Lecturer, or Teacher of such Divinity.

The Bill was carried through the House of Assembly by a majority of 33 to 8. Among the majority were nine members whose views on other subjects were directly opposed to those of the liberal party, but so strong was the feeling throughout the country in favour of the measure, and so convinced were the members themselves of the flagrant injustice of planting exclusive educational Institutions among so varied a population as Canada contained, that the various resolutions submitted to the House, in successive Sessions and Parliaments, had been adopted with all but perfect unanimity. The delay that took place in effecting their object was occasioned solely by the obstinate resistance made by the College Council and total indifference of the local Government to popular opinion. The influence of the Executive in the Legislative Council was such, that the persons composing the former could, at any time, either put a stop to the most wholesome measures, or forward to the utmost extent the sinister interests of any party whom they wished to favour. The Executive and Legislative Councils were indeed two bodies in name, but one in fact—the persons composing the one being the majority in the other—and each being alike irresponsible to the country. Under such an administration and antagonism of principles and interests, in the different branches of the Legislature, it was utterly impossible that the system of Civil Government could effectually promote the prosperity of the Province, or that wholesome measures could be passed suitable to the wants and happiness of the people. The history of the University of King's College shews that the British Government had no wish to govern Canada but in accordance with the wishes of the great majority of the people, where these wishes were perfectly known and understood; but the proper influence of the British Government was at that time comparatively unfelt, and the successive Governors, after a brief show of resistance, tamely submitted to the absorbing influence of the local oligarchy. In this manner the Bill for opening the University to all classes and denominations, although urgently and almost unanimously demanded by the people, was destined to share the fate of almost every other measure of a popular character. It was thrown under the table of the Legislative Council, and the ardent expectations of the country were disregarded with the reckless indifference of a party long habituated to trample upon popular rights.

The arrival of Sir Francis Bond Head in 1836, and the general tenor of his instructions again excited the hopes of the friends of popular Government. The distinct recognition which these instructions contained, of the right of the Provincial Parliament to legislate on the subject of the University, and the desire evinced by the British Government to have the Educational Seminaries adapted to the circumstances of the country, afforded the highest gratification to the friends of

Education. Respecting the Collegiate Institutions of the Province—a complaint having been made by the Assembly that Upper Canada College was upheld at great public expense, with high salaries to its principal Masters—Lord Glenelg observed in his Despatch of 5th December, 1835 :—

"His Majesty's Government can have no wish to retain any charge for this Establishment, which may be more than adequate to provide for the effective performance of the duties of the Teachers. Any wise retrenchment of that nature may, subject to the principles already mentioned, be immediately introduced. That the Province derives little benefit from this College, is a fact of which the explanation is to be found, not in the principle of the Institution itself, but in some error of management, susceptible, as it should seem, of an easy remedy.

"On the subject of King's College—an unfortunate difference of opinion exists between the Council and the Assembly, which each of these bodies concurs in pronouncing incurable.

"His Majesty commands me to tender, through you, his mediation on the subject. With the previous assent of both Houses, the King will cheerfully resume the consideration of the question, in what manner a Charter could be most conveniently prepared, so as to promote the interests of Science and Literature, and the study of Theology and Moral Philosophy, with a due regard to the opinions which seem to prevail in the Province, respecting the proper constitution and objects of an University. But after having distinctly referred to the Local Legislature the duty of giving effect to their own wishes on the subject, *in the form of an Act of General Assembly*, his Majesty cannot, at the instance of one only of the two Houses, withdraw it from their cognizance."

Lord Glenelg's instructions to the Lieutenant Governor were laid before the Assembly, but events of a more pressing nature soon absorbed the attention of the Province, and the subject of University Reform was for a time laid aside. The contest between Sir Francis Head and the House of Assembly, respecting the responsibility of the Executive Council, created a serious rupture, which ultimately led to the refusal of the supplies, and terminated in the dissolution of Parliament. Whatever the real merits of that contest may have been, it is certain that in consequence of the extraordinary course then pursued by the Lieutenant Governor, the tone and character of the next House of Assembly, did not reflect the true state of popular feeling on many of the important questions which had previously agitated the country. No change had exhibited itself in the sentiments of the people on the subject of the University, but the elections had been decided on a question of a more exciting character—visionary indeed, of itself, but sufficiently plausible to afford available capital for Government agitation. The question of "British Connection" was represented as depending on the votes of the electors at the Hustings—and so successfully was the country deluded by a mere electioneering trick of the Government, that many individuals whose loyalty would otherwise have been far above suspicion, were deprived of their seats on account of their strenuous maintenance of popular rights. Notwithstanding the personal aversion, however, entertained by the majority of the new Parliament to interfere with the Charter of the University, the necessity of some alteration in its constitution was forced upon them by the prevailing sentiments of the country, and the modifications effected, however reluctantly admitted and injudiciously made, at least settled the great principle for which the people had so long and anxiously struggled—the right of all classes and denominations to a full and free participation in the benefits of the Institution

In November, 1836, a Committee consisting of Messrs. Draper, Burwell, Aikman, Sherwood and Cameron, were appointed to frame a Bill, which would meet the demands of the country without being obnoxious to the illiberal principles of the Legislative Council. The Committee accordingly reported a Bill to amend the Charter of King's College; and as the principle upon which this measure was framed will claim some importance in the argument which it is proposed, in a subsequent chapter, to deduce from the historical sketch which has been given, it is proper to quote the principal amendments.

After reciting the original Charter, the Bill enacted that the Judges of his Majesty's Court of King's Bench should, for and on behalf of the King, be Visitors of the College, in the place and stead of the Lord Bishop of the Diocese of Quebec, for the time being, and that "the President of the said University, on any future vacancy, shall be appointed by his Majesty, his Heirs and Successors, *without requiring that he should be the Incumbent of any Ecclesiastical office*, and that the members of the College Council, including the Chancellor and President, shall be twelve in number, of whom the Speakers of the two Houses of the Legislature of the Province, and his Majesty's Attorney and Solicitor General for the time being, shall be four, and the remainder shall consist of the five Senior Professors of Arts and Faculties of the said College, and of the Principal of the Minor or Upper Canada College; and in case there shall not at any time be five Professors as aforesaid in the said College, and until Professors shall be appointed therein, the Council shall be filled with members to be appointed as in the said Charter is provided, *except that* IT SHALL NOT BE NECESSARY *that any member of the College Council to be so appointed, or that any member of the said College Council, or any Professor, to be at any time appointed, shall be a member of the Church of England, or subscribe to any Articles of Religion, other than a declaration that they believe in the authenticity and divine inspiration of the Old and New Testaments, and in the doctrine of the Trinity*; and further, that no religious tests of qualification be required or appointed for any person admitted or matriculated as Scholars within the said College, or of persons admitted to any degree or faculty therein"

The Bill passed both Houses of the Legislature without opposition, and received the Royal Assent on 4th March, 1837

The principle of perfect religious equality among Christians professing the doctrine of the Trinity, thus recognized by the Legislature in the abandonment of the Episcopal test in the Amended Charter, was supposed to have terminated the struggle for religious freedom in this great educational institution The University was satisfactorily divested of the Episcopal character imposed upon it by the original Charter, and the special claim of any religious denomination to exclusive privileges and provisions was intentionally barred Unfortunately for the

Institution the individual, whose violent hostility to popular freedom and the rights of conscience, will give to his name an unenviable prominency in the civil and religious annals of this Province, was left by the Amended Charter at the head of the management; and thus the struggle which the people fondly believed to have been terminated by the interposition of Parliament, was renewed and maintained with hostility as determined, and zeal and energy as persevering as ever on the part of those whose duty it was to carry the principles on which the University was finally established into operation. The supposed termination of the *public* contest for principle, which appeared to make a full recognition of the rights of all denominations of Trinitarian Christians was a mere truce, that the battle might be fought on different ground. The scene of operations was merely changed from the Parliament of the Province to the Council Board of the University. But before we transfer the combatants to this new arena, in which some remarkable manifestations of character have been made, it is befitting that we briefly review the ground over which we have travelled.

In a more discursive history of the University of King's College, the intimate connection of that institution with the agitating questions in education and religion, which have for so many years disturbed this Colony, should have been exhibited more fully than the pretensions of the present sketch have permitted. And this might easily have been done, by setting forth on the one hand the contemporaneous struggles of the people to obtain for themselves absolute freedom of thought and action in matters of faith and government, with equal advantages to Christians of all denominations, so far as education and civil rights were involved; and on the other the attempt unsuccessfully and sternly persisted in by a dominant compact, to introduce and perpetuate in this Province a dominant Church, and a negative persecution of what that Church chose to denounce as heterodox.

When the Clergy Reserves were set apart, it is possible that the formation of a dominant Church established on the model of the Church of England may have been intended—and had such an intention existed it would appear to us only as the natural offspring of the state of religious intolerance, which prevailed in most nations of Europe, where for centuries past religious struggles were not for equality, but for domination; and where each sect, without even professing toleration, sought either to maintain itself in the national Church, or to reform that Church to its own model. The Presbyterian form of worship and discipline, after a futile attempt to force itself upon England, retired into the Church of Scotland, and left Protestant Episcopacy the national English religion. The same Sovereign, from the necessity of the case, became the earthly head of two antagonist Churches, sworn to preserve and maintain them both; and when the question arose as to what should stand in the place of a national Church in this Province, the Church of England, as by law established, may have been solely intended, or the national Church of Scotland as equally by law established, may have been contemplated as co-existent with the Church of England. At all events the law in setting apart the Clergy Reserves for a "Protestant Clergy,"

G

left the matter entirely open. But the Church of England decided the question for herself that she had exclusive claim to a true Protestant Clergy, and thus got possession of the appropriation.

The original claim of the Church of England to the School Lands did not indeed rest upon the *prima facie* title by which she maintained her right to the Clergy Reserves. For in this case the endowment was placed in the hands of the Legislature for the purposes of *general* education—while in the former it was granted with a restriction which seemed to favour her pretensions. Her claim to the School Lands therefore could only be maintained on her assumed right as an Established Church to have the exclusive direction of popular education.

The first attempt at resistance to her monopoly of the Clergy Reserves arose on the part of the members of the Church of Scotland in Canada, who claimed that their Clergy were Protestant—and not only Protestant, but actually so, *as by law established*. Both the contending parties forgot that it was the people of England, and the people of Scotland, respectively, who, after many years of bloody contention, established their Churches in their respective kingdoms—and that what should thereafter be the national Church in the American Colony, if it should ever have one, depended not upon the will of the British Parliament, but upon the faith and doctrines which should be adopted by the future Colonists on their own behalf. Happily, very happily for Canada, the claims of the Scottish Church, though strongly advocated in England, were too weak to prevail against the influence of the Archdeacon of York. The conflict between the rival Churches created sufficient noise to awaken at length those who belonged to neither; and these latter, naturally enough, asked themselves, whether they wanted a national Church at all. The Scottish Church being considerably the weaker, was baffled in the fight, and joined the independent sects in a combined attack upon the supremacy of Episcopacy, and eventually a national religion, or in other words a form of religion conferring exclusive rights or advantages upon its adherents, became to most intents and purposes a shadow or an empty name.

The High Church party among the Episcopalians, instead of maintaining that the Church of England existed here as a national Church, and that therefore the support granted by Parliament for a Protestant Clergy belonged to this Establishment, contended that the Clergy Reserves were granted and consecrated inalienably to the Church of England as such in this Colony—and for the Clergy they claimed as grantees the whole benefit of the Reserves. The question was mainly debated in this form—but in this shape the real point was avoided. And as the question has an intimate bearing on the claim which the Episcopal Church has set up to the exclusive control of the University, we shall endeavour to place it in its true shape, with such illustration as may be necessary to shew our meaning.

We hold that any people may, by means adapted to their form of Government, erect and endow a national Church. This national Church may be Roman Catholic, and may become Protestant Episcopalian, or Presbyterian, or Methodist, according to the will of the nation constitutionally expressed. And, by a parity

of reasoning, as the Church may, in a legal point of view, change its doctrine and still remain a national Church, so the same power which created it, may create many co-existent national Churches, or it may do without any national Church whatever.

At the Reformation in England, besides the confiscations of property appropriated to the Church and taken for state purposes—which confiscations we are not obliged here to defend or condemn—the ecclesiastical benefices throughout the nation were filled with Protestants in the room of Roman Catholics. The appropriations were originally made for the national Church,—not for the Roman Catholic Church,—and the property being national and not Roman Catholic, it continued without wrong in the national Church when it became reformed, and with that reformation forsook the Church of *Rome*. This could not have been the case had the property attached to the doctrine, or had it been considered in the light of an estate *vested in the Romish Church as once established in England.*

In the same manner in Scotland Episcopacy and Presbyterianism held Church benefices alternately, as either prevailed; but the benefices have continued national, and have followed the Church to this day.

Now it is very plain that had *England* and Scotland contained so many religious persuasions, upon terms of equality, or nearly so, as regarded members and wealth, as to make it impossible for any one to establish a supremacy, the national Church property could not have continued with any one sect. There must, in fact, have been many national Churches, or no national Church at all.

As regards this Province, it may have been the intention of King George III., or of his Majesty's Parliament, or of his Ministers, that the people of Canada should be all of the faith of the Church of England, or that some portions should profess the doctrines of the Church of Scotland, and that the Canadian Protestant Church should consist of one or both, as a National Church, but it is clear that events did not fulfil the intention. The people of the country, through a diversity of causes, became divided into many religious communities, no one of them having sufficient predominance in numbers or influence to be *the Church*. The Upper Canada Legislature repeatedly desired to have no such Church, and they prayed—as they had a right to do—that the Clergy Reserves should be appropriated to secular education.

By the late division of the proceeds of Clergy Reserves among different religious denominations, the principle has been established in Canada as regards state support—not that there should be no Church, but that there should be many Churches; and as regards any exclusive privilege or monopoly of civil advantages, we have not, thank Heaven, in Canada, a vestige of a dominant Church, except in the University of King's College.

As all Church endowment from national funds is for the religious instruction of the community—however their faith or doctrine may change or vary—so is all public endowment for educational purposes liable to be modified for the benefit

of the people to be instructed and as an endowment made in Romish times was not one necessarily attached to the Roman Catholic faith, neither is a public endowment for educational purposes—supposing even that it had originally provided for religious instruction in a particular faith—a grant to the professors of that faith, but a grant for a public purpose which must be liable to modification so as to serve the end for which it was originally appropriated

The University of Oxford once taught the Roman Catholic faith it is now the chief source of religious education for a Protestant Church Could this have been so with any regard to justice had the endowment been held to be Roman Catholic, and not national?

The late Clergy Reserve Act is based upon the principle not merely of religious toleration—but of perfect religious equality Whatever inequality may exist in the distribution of the funds, the principle is preserved in all its integrity We look upon the passing of that Act as a great event in the establishment of religious freedom, not the less valuable because it was not accomplished through blood and violence, but there yet remains after the wreck of Church predominancy—the wretched attempt of the Council of King's College to invest the Episcopal Church with the attributes of an exclusive education at the public expense—and when that Institution is *made public*, and sacred for public purposes, and not a nest in which a Clergy can hatch their schemes of Church predominancy—Canada then, and not till then will have religious freedom with absolute religious equality

But in the settlement of what the character of King's College should finally be, this strange anomaly exists King's College *de jure* is unconditionally an establishment for the education of the Canadian people *De facto* it is an exclusive institution for the education of a mere section professing the doctrines of the Church of England Abstractedly the principle of religious equality has been determined by the law—while practically religious predominancy has been imposed by the Council The obvious conclusion is—not that the principle established by the Legislature should be changed—but that the parties who have inverted the law and insulted its majesty should be superseded The remedy is one which the law, even without legislative aid, daily applies towards those who have betrayed their trust and frustrated its purposes In this case the principal object of Parliamentary interference will be to restore public confidence in an Institution whose purposes have been scandalously perverted by its Trustees.

CHAPTER V

THE ORIGINAL COUNCIL

The original Charter ordained that the Corporation called or known by the name of "the College Council" should consist of "the Chancellor and President of the College for the time being" and of "seven of the Professors in Arts and

Faculties,' and in order to provide for the management of the University by the formation of a Council previous to the appointment of Professors, power was given to the Chancellor "to appoint seven discreet and proper persons resident within our said Province of Upper Canada, to constitute jointly with him the said Chancellor and President of our said College, for the time being, the first or original Council." It was also declared that such persons should vacate their seats at the Council Board immediately on the Professors being appointed.

The proceedings of the Council under the original Charter, so far as connected with the public history of the University, have been incidentally noticed in the preceding chapters. To the members of that body are to be traced all the obstacles which were thrown in the way of the Parliament and the people in their long and arduous struggle for equality of rights in the University as a national School of learning and science Compelled at length to submit to a partial modification of their exclusive system the Council directed all the energy and influence of which they were possessed to defeat the intentions of the legislature in opening the institution to the various religious denominations in the Province, and to place it permanently under an exclusively Episcopal management. The Amended Charter did not in any respect alter the mode in which the Council was to be constituted but it restricted the number of Professors who were to have a seat at the Board to "the five senior Professors of Arts and Faculties," and extended the number of the whole Council to twelve—the Speakers of the Houses of Parliament, the Attorney and Solicitor General, and the Principal of Upper Canada College being members *ex officio*

The design of the High Church party to defeat the principle of the Amended Charter was not long suffered to be dormant. Within a few weeks after the Royal Assent to the modifications of the Charter had been obtained, Dr Strachan enunciated to the Council another of his invaluable "schemes" for making the University subservient at once to the interests of the Episcopal Church, and to an enlargement of his personal and pecuniary advantages The new proposition, which he submitted to the Council on 28th April, 1837, affords a curious specimen of the consummate art with which he attempted to ingraft his personal influence on the subordinate departments of the institution, so as to render his authority co-extensive with its most minute details. In other respects it presents a no less happy illustration of the confidence with which this "Universal Doctor" was inspired in his own pre-eminent qualifications as a public teacher After a passing tribute to the High Church University of King's College, London, he thus proceeded to place his intellectual resources at the disposal of his country:

> "Besides general superintendance, it is proposed to make the services of the President available for the Professorship of Moral and Intellectual Philosophy, with Christian Ethics and Political Economy It will likewise be his duty to instruct such Students as belong to the Establishment in Christian Theology."

It might be no easy matter to determine the precise amount of loss sustained by the youth of Canada in being deprived of the services of Dr Strachan as an Academical Encyclopedia—but we have at least the guarantee of Dr Strachan's modest assurance that the faculty of discoursing on such abstruse subjects as Moral and Intellectual Philosophy, Political Economy, Christian Ethics and Christian Theology, may be acquired in a less intellectual atmosphere than within the walls of an University. For at what far-famed Academy did this "Universal Doctor,"

"Qui tria, qui septem, qui omne scibile novit,"

complete the cycle of universal study? Truly we may felicitate ourselves on the wonderful achievements of the Clergy since the times of an early English Monarch who was wont to complain that not a single priest south of the Thames, and very few on the north, could read either Latin or English. But our admiration of Dr Strachan's innate excellencies rises into adoration when he informs us that "the labor will not be so great as on a slight view might be anticipated," and that he does not intend to confine his services to the fluent discovery of those illimitable stores of learning which would have delighted and instructed remote posterity, but that he will also generously undertake the task of selecting the Professors for the various departments of Art and Science which excessive diffidence alone prevented him from pre-occupying. In this latter instance of his enterprise it may have been that the bright forms of Crosier and Chaplains floated before the prophetic vision of this learned Doctor, and that he was slightly influenced by the consideration that another visit to England at the public expense might place within his grasp the objects of his devout solicitude—but apart from such motives of piety, it was highly proper that his learned colleagues and fellow labourers in the Council and in the College should be men untainted by the heterodoxy in politics and religion which was evidently diffusing itself over the Province of Canada. He, therefore, proceeds in the developement of his scheme:

"So soon as matters are in a proper train, it is submitted that the President be authorised to proceed to England, to select the Library, Apparatus, &c., *likewise to assist in choosing such efficient professors* AS ARE CALCULATED TO LIVE IN THE CLIMATE."

How interesting is the worthy Doctor's anxiety for the physical qualifications of the professors! Not a word escapes him of their due instruction in the Thirty nine Articles and the doctrine of passive obedience. Every orthodox consideration is merged in a parental solicitude for long life, and we are naturally led to anticipate proposals for Policies of Assurance, or at least the sanatory recommendation of a frequent and careful perusal of Sir John Sinclair's invaluable Code of Health. It is doubtless a malicious exercise of ingenuity to trace under this specious proposition, a well planned design for rivetting the fetters of an Episcopal ascendancy on the University. For although the modifications effected by the Legislature were intended to deprive the Institution of the Episcopal restrictions imposed on it by the Original Charter, yet it was sufficiently obvious that if Dr Strachan could succeed in filling the Council Board and the Professors' chairs with individuals hostile to the rights of the other Christian denominations and sufficiently subservient to his own authority the intentions of the Legislature might be clandestinely frustrated, and the University would speedily resume its original character The very absurdity of its pretensions, however, destined the scheme to defeat A copy of the detailed proposition found its way into the public prints, and so agitated the country with merriment that Dr Strachan found it convenient to restrict his pretensions to the Chair of Theology

The "scheme" was only abandoned to be re produced in another shape Dr Strachan's ambition was at length gratified with the object of his devout aspirations. The high dignity to which he had attained, as Episcopal Bishop of Toronto, was incompatible with the humbler duties of a Professor's Chair but it became necessary, in such circumstances, to maintain, in the University, the unbroken chain of Episcopal succession

The Original Charter ordained that "the Reverend John Strachan, Doctor in Divinity, Archdeacon of York," should be "the first President of our said College," and that the President should be *ex-officio* a member of the Council It does not contemplate the exercise of any extraordinary power on the part of the President beyond that of any other member, further than the right of presiding at the meetings of the University, and exercising the usual functions of a Chairman. His other duties necessarily begin and end in the Council, and his authority in the University extends simply to matters as to which the Council may give him a special delegation As a recompense for these common duties as a Trustee in the management of the property, he had contrived to appropriate for about twelve years the annual salary of £250 sterling, which was regularly paid until Sir George Arthur put a stop to this disgraceful misapplication of the funds. In consequence of this untoward circumstance, Dr Strachan's zeal for the University appears to have experienced some abatement, but it was scarcely to be expected that he would relinquish the influence which he had so long exercised without making a violent effort to secure an identity of interest and disposition in his successor

The political changes to which the Province was soon afterwards subjected, afforded ample opportunity for putting in operation the new series of intrigues which we are now to place before the public The active interference of the successive Chancellors, Sir George Arthur and Lord Sydenham, had some effect in placing the financial affairs of the University on an improved basis, but the general system and the character of the Council remained unchanged, and, at length, the removal of the Seat of Government from Toronto, by depriving the Council of the only members from whose enlarged views were likely to emanate, left the University entirely in the hands of an Ecclesiastical Compact, whose extravagant and unscrupulous conduct has brought it to the verge of ruin

In anticipation of the University being speedily opened for the purposes of instruction, it became an object of paramount importance to the Council to make arrangements for the change in its constitution consequent on the appointment of Professors. The Charter distinctly recognised an order of precedence among the Professors, and imposed certain duties upon "the Senior Professor," which gave him rank and importance next to the President. In the arrangements for carrying the University into operation, a Professorship of Theology was determined on, in direct opposition to the Amended Charter; and following the example of the older Universities, the Chair of Theology received the precedence in a statute approved by the Chancellor, and passed by the Council. So long as Dr. Strachan's claim to this Chair was preferred, this arrangement was, of course, satisfactory to the parties by whom it had been planned; but, on the abandonment of that claim, it appeared to the Council to be expedient—while any uncertainty as to the individual who might receive the appointment existed—to defeat the provisions of the Charter by a Council Statute better adapted to their sinister purposes. Accordingly, favoured by the changes in the Head of the Government, the Council framed a new Statute by which they determined the seniority of the Professors on the principle of retaining in the Second Council the individuals who had been most prominent for their bigotry and High Church zeal in the Original Council; and thus ultimately succeeded in placing the University at the most critical period of its existence—the commencement of its public operations—in the hands of parties who had never relinquished the intention of converting it into an Episcopal College.

The new statute of the Council brought into existence an office unprecedented in any Academic Institution in Europe. By concentrating an unlimited discretionary power in one individual known to be favorable to their designs, provision was made for carrying out the schemes of the High Church Party, without the solemnity of Statutes, which if illiberal, might have received opposition either from the Chancellor or the future Council. To guard against such a contingency the new office of "Vice President," was created by a Council Statute—framed by a well disposed Committee, of which the very individual for whose exclusive benefit it was created was Chairman. The statute received the ready approval of his spiritual colleagues; and it swelled the brilliant series of retrospective "preferments," to which Dr. McCaul may have subsequently alluded in his brief for a learned Counsel, by saddling the University with an annual burden of £250 sterling—which it has been the means of conferring on Dr. McCaul, in addition to the ample endowments he derives as one of the best paid Professors in the University. The intention of the Statute obviously was to supersede the necessity of a discretionary Council, and by placing in the hands of Dr. McCaul, already notorious in the Province as a violent and begotted High Church partizan, the entire direction of the Institution, to reduce the Council itself to a nullity, or at the best, a mere instrument for the gratification of his unbounded passion for power. The office itself was not only repugnant to the spirit as well as the letter of the Charter, but the powers and duties concentrated in the individual whom the statute contemplated were directly at variance with the acknowledged principles of law by which the functions of Trustees are regulated.

It will be afterwards a matter of some interest to enquire what were the nature and extent of Dr. McCaul's proceedings under this appointment. At present it is merely referred to in reference to its gross illegality. Not only is no such officer contemplated by the Charter, but direct reference is made to the person who shall rank next to the President of the University, and who shall be entitled, in absence of the President to perform his duties,—namely, "the senior member of the said Council present," and the precedence of this senior member is again significantly referred to in a subsequent part of the Charter in which the Chancellor is enjoined "to consult with the President of our said College, and the next *senior member of the said College Council*, respecting all statutes, rules and ordinances to be proposed by him to the said Council for their consideration." And the Charter further declared, that "*the seniority of the members of the said Council, other than the Chancellor and President, should be regulated according to the date of their respective appointments*." Under these provisions it was competent for the Council to have appointed Dr McCaul a dean or proctor of the University—although the policy of conferring such office on one of the Professors might have been questionable, but in either of these offices his duties would have been strictly ministerial; he would have been the servant of the Council, not its dictator, and his genius would have been applied to purposes for which it was evidently intended—the enforcing a discipline which others more qualified had projected. But it was obviously *ultra vires* of the Council to infringe the rights of "the senior member," by the appointment of an officer who should not only supersede him as one of the advisers of the Chancellor, and take precedence of him in the Council where his position was accurately determined by the Charter, but who should possess powers co-extensive with those of the Council itself.*

---

* It is a well recognized principle in Equity, that the office of Trustee being one of personal confidence it can in no case be delegated to another. The existence of a discretionary trust is at variance with a delegation of its execution to a stranger who could only be made responsible for ministerial acts. And it makes no difference that the individual to whose instrumentality its execution is entrusted is a co-Trustee. The authorised Trustees are not only personally answerable for all the mischievous consequences of the delegation, but all the acts of the substitute which are of a discretionary character are *actually* void. It is notorious that under Dr McCaul's disastrous management, the University incurred liabilities to an extent and of a character far transcending the most profligate periods of the administration of the University affairs. Valuable lands were recklessly disposed of to meet the pressing exigencies caused by his frivolous and puerile extravagance and misapplication of the trust property, and at this moment the University is struggling with pecuniary difficulties which have already considerably impaired its efficiency, and actually threaten its solvency unless immediately relieved by the sale of a large portion of the endowment. An attempt is indeed being made to prevent a public exposure by disposing of the University Lands, but as the College Council has no authority under the Charter to effect any such sales, so hazardous a speculation will scarcely tempt purchasers whose rights will in all probability be defeated in a Court of Equity.

If the Statute itself was illegal *ab initio* the manner in which the powers under it have been executed has placed it far beyond the pale either of law or of reason. Were the subject not associated with too grave considerations it would move to tears of laughter to describe how

"Vaulting ambition hath o'erleaped itself"

and to witness the misapplication of talents which might have made a pedagogue respectable but which were unhappily never designed by nature for the higher duties of government in a University. The subject will however, merit due consideration, when the educational operations of the Institution fall to be detailed.

It is certain that the appointment was considered to be illegal by the Law Officers of the Crown—and that such is its effect will be sufficiently obvious from a summary of the discretionary powers with which the Statute has invested this anomalous officer. The statute proceeds on the preamble that the residence of the President within the precincts of the University and his personal superintendance of its internal affairs are incompatible with the discharge of his ecclesiastical duties. It therefore declares that there shall, during the Presidency of the Bishop of Toronto, be a Vice-President, who *shall be one of the Professors, and who shall have precedency and seniority next to the President*—that the Vice-President shall reside within the precincts of the University—that he shall preside at all meetings of the Convocation in absence of the Chancellor and President—that it shall be his duty to examine Students previous to matriculation, to *maintain observance of the Statutes by the Professors*, Scholars, and all other members of the University—to enforce such observances and discipline by *admonitions and punishments*—to be the parent and guardian of the Students, to direct them in their studies—to promote by all means in his power their progress in religion and learning—preside over College exercises—regulate inferior officers and servants—*and inspect all the affairs of the College not appertaining to the Bursar's office.*[*]

The creation of the office of "Vice-President" irrespective of its own merits, assumes an importance in the History of the University, from the circumstances which followed the appointment. It brought the rights of the respective Professors into collision by involving the order of precedence in doubt, which was only set at rest after considerable delay, by the interposition of the authority of the Chancellor, into whose hands the Professors deemed it necessary to surrender their appointments. The authority of the Council was thus, for a time, placed in abeyance, and during an interregnum of several months the favourable opportunity was seized by the Vice-President of gratifying his insatiable passion for frivolous display and extravagance, with the zest to his disastrous Administration that it was uncontrolled by any thing like personal responsibility. The absence of responsibility during the abeyance of the Council affords, indeed, a striking argument for the illegality of the office. It would be monstrous to suppose that the guardians of a public trust could at any time throw off their responsibility to the public by not only delegating the powers vested exclusively in themselves to the instrumentality of an irresponsible officer—but actually bequeathing these powers which could only be exercised—if they could be legally exercised by delegation at all—during the existence of the original Trustees.—And yet to whom was the Vice-President responsible? Not, certainly, to the old Council, whose existence was no longer recognized by the Charter, and, assuredly, not to the new Council, for he could possess no authority from them till his appointment had been confirmed. And yet during the interregnum, this officer usurped powers of administration as ample as the first Council ever affected to possess, and signalised the period of his usurpation by a daring violation of the provisions of the Legislative enactment under which the University went into operation, by gross misapplication of the funds of the Institution, and by the introduction of a discipline alike repugnant to the feelings of the community and disastrous to the interests of the University.

---

[*] By another Statute of the Council, the important concerns of the Bursar's office were confided to the parental care of the Bishop of Toronto.

CHAPTER VI.

THE OPENING OF THE UNIVERSITY.

In June, 1843, under the Administration of the "Vice President," the University was opened for the purposes of Education. It is important to observe that this step was taken while the authority of the College Council was in abeyance, and before a single statute had been passed for regulating and enforcing the government and discipline of the Institution. All the preparatory arrangements seem to have been made under the discretionary authority of Dr McCaul, as Vice-President; and as the same unlimited power extended over the whole of the first term, his name may very justly be associated with the singular details which have given to the University its present tone and character.

The Council now felt themselves in a position to offer open violence to the principles of the Amended Charter. Every effort was studiously made to impress the public mind at the outset with their determination to defeat the intentions of the Legislature by imposing an Episcopal character upon the Institution. Under no authority from the Charter, but in flagrant violation of its spirit, a Theological Chair had been established, from which the doctrines of the Church of England were to be taught, by a Professor selected from the University of Oxford—the fountain of orthodox illiberality and prejudice. With one exception, the Professors had been all taken from the bosom of the Episcopal Church,—a circumstance in no respect detracting from their qualifications, but the result of something more than accident, and certainly calculated to have a material influence on an institution, which, in other respects, has been so carefully moulded to Episcopal prejudices. A chapel had been fitted up at great expense for the exclusive accommodation of the Episcopal members, in which every student was compelled, unless favoured by the dispensation of the Vice President, to worship daily according to the ritual of the Church of England. In the most minute details of dress and discipline, the Universities of Oxford and Cambridge, which have been so long distinguished for violent hostility to the Dissenters, were imitated with a precision abundantly significant of the spirit in which the University of King's College was to be governed. The frivolous taste of the Vice-President was amply gratified with the melo-dramatic effect of caps, gowns, hoods, surplices gilded maces and baubles. Utterly destitute of that comprehensive grasp of intellect which would have seized upon and incorporated those higher and nobler features which have rendered the ancient Universities of England venerable in spite of their corruptions his genius seemed to soar no higher than the mere *tailoring* department, in all the frivolities of which it revelled as if under the influence of a miserable monomania, and of a silly anticipation that those venerable absurdities which had grown up on the banks of Isis and Cam, would *impose* upon the people of Canada, and would compensate for the absence of all that was solid and useful, and adapted to the position of the country and to the genius and wants of the people.* Undismayed by an Exchequer impoverished by its own

---

* We acknowledge a high respect for the Academic Institutions of England, but none for the corruptions under which they labour. Nor has all the frothy declamation of the Vice President convinced us that England owes much of her renown to the system upon which these exclusive Establishments are conducted. It would be as absurd to attribute the greatness of English literature to the course of Academic instruction at the Universities as it would be to trace the greatness of England's commercial prosperity to the restrictions upon her trade. It is not, however, against the Institutions themselves that we are inclined to inveigh, but against the abuses which are there permitted to flourish in exuberant rampancy. If we have formed an unjust estimate of their merits, we have at least the satisfaction of erring in company with the greatest names of which English literature has to boast. Bacon spoke of their constitution with reprobation; Milton condemned their injurious influence in retarding the expansion of the mind. Dryden regretted the time which they had caused him to misspend. Clarendon felicitated himself on his escape from them. Swift, Gray and Gibbon assailed them with the keenest shafts of their raillery—and Junius described them as a "peaceful scene of slumber and thoughtless meditation." It would be easy indeed to establish, by the testimony of a series of the most gifted minds which England ever produced, that at no period of their history have these ancient Universities been free from gross corruptions and defects; and we take advantage of a note to quote a few of the authorities immediately at hand, and from whom a more favourable representation might have been expected, if truth could have been sacrificed for the sake of interest and inclination.

"In the Universities they learn nothing but to believe: first, to believe that others know that which they know not; and after, themselves know that which they know not. They are like a becalmed ship; they never move but by the wind of other men's breath, and have no oars of their own to steer withal."—*Bacon's Tract on Praise of Knowledge.*

"In the Universities, all things are found opposite to the advancement of the sciences; for the readings and exercises are here so managed that it cannot easily come into any one's mind to think of things out of the common road; or if, here and there, one should venture to use a liberty of judging, he can only impose the task upon himself, without obtaining assistance from his fellows; and if he could dispense with this, he will still find his industry and resolution a great hindrance to his fortune. For the studies of men in such places are confined, and pinned down to the writings of certain authors; from which, if any man happens to differ, he is presently reprehended as a disturber and innovator."—*Novum Organum Ax. 90, lib. 1.*

"Such are the errors, such the fruits of misspending our prime youth at the Universities, as we do, either in learning mere words, or such things chiefly as were better unlearned."—*Milton's Tract on Education.*

"The two wells of learning, Oxford and Cambridge, are dried up, students decayed, of which scarce an hundred are left of a thousand; and if in seven years more they should decay so fast, there would be almost none at all; so that the devil would make a triumph, whilst there were none learned to whom to commit the flock."—*Dr Bernard Gilpin's Sermons preached at Court.*

"The Universities, Oxford especially, have been unhappily successful in corrupting the principles of those who were sent to be bred at them; so that few of them escaped the taint of it, and the generality of the Clergy were not only ill-principled, but ill-

reckless extravagance, a crowd of lacqueyed officials was employed to swell his personal pomp,—as if to prove that an endowment for the public benefit was to be administered as if nothing more was to be considered than the private gratification of its Trustees.*

---

tempered; they exclaimed against all moderation as endangering the Church; though it is visible, that the Church is in no sort of danger from either the numbers or the interest that the dissenters have among us; which, by reason of the toleration, is now so quieted that nothing can keep up any heat in these matters but the folly and bad humour that the Clergy are possessed with, and which they infuse into all those with whom they have credit." "In those seats of education instead of being formed to love their country and constitution, the laws and liberties of it, they are rather disposed to love arbitrary government, and to become slaves to absolute monarchy; a change of interest, provocation or some other consideration, may set them right again as to the public; but they have no inward principle of love to their country and of public liberty; so that they are easily brought to like slavery, if they may be the tools for managing it."—*Bishop Burnet's Hist.*

"Let him who is fond of indulging in a dream-like existence go to Oxford, and stay there; let him study this magnificent spectacle, the same under all aspects, with its mental twilight tempering the glare of noon tide or mellowing the shadowy moonlight; let him wander in her sylvan suburbs or linger in her cloistered walls; but let him not catch the din of scholars or teachers, or dine or sup with them, or speak a word to any of the privileged inhabitants; for if he does, the spell will be broken, the poetry and the religion gone, and the palace of his enchantment will melt from his embrace into thin air!" "What has been the result of this system of education pursued at the Universities? During the last two centuries one class of statesmen has resisted all improvement, and their opponents have been hurried into intemperate alterations; whilst philosophy, lamenting these contentions, has, instead of advancing the science of government, been occupied in counteracting laws founded upon erroneous principles; erroneous commercial laws; erroneous laws against civil and religious liberty; and erroneous criminal laws."—*Montagu's Life of Bacon.*

"Founded by priestcraft, closely linked with its professors in the earliest times, and always in the hands of the ruling powers of the Church, the Universities have in every age been most exclusively appropriated to the education and usages of the Establishment and its members. The most rigorous compliance with its doctrines has always been exacted; the strictest exclusion of all Dissenters from it has uniformly been practised. As long as Popery was the religion of the State the Universities were rigidly Catholic; and indeed their endowments, in by far the greater part, proceeded from the bounty and piety of Romanists, and were given for the propagation of the Romish faith, and the inculcation of the Romish discipline. When the State threw off its allegiance to the Pope and became Protestant the Universities followed, and piously directed all the donations and bequests of their Catholic founders to the destruction of the Catholic religion, embracing the reformed faith, with the intolerance of their old professors, and transferring to Dissenters the hatred which they had formerly borne to the doctrine and discipline of Protestants. But this hatred was very cordial, if not very consistent; and no participation in their endowments could ever be hoped for by any one who was not prepared to avow an implicit belief in the dogmas of the Church, and testify it by an outward observance of her ritual every day as well as by occasional declarations and signatures of a more solemn kind."—*Edin. Rev.* Aug. 1825.

"One fortnight," observes Dr. Pusey, "comprises the beginning and end of all the public instruction which any candidate for Holy Orders is required to attend, previously to entering upon his profession."

"The University of Oxford," Professor Sewell confesses, "is not an enlightened body—we (its members) have little liberality in religion, and we study logic in a very humble way."

* It is a deplorable fact that the number of salaried Officers in King's College nearly equals that of the Students who have matriculated during the three first terms.

The gross and rude attempt to establish the Collegial residence and discipline in all those unimpaired deformities which have caused the eminence of Cambridge to alternate in fearful oscillation between a School of Learning and of Licentiousness, showed how little the Vice-President knew or understood the history and character of those Institutions upon whose mechanism he seems to have gazed with a sort of savage bewilderment without being able to comprehend any one of the principles upon which it had been set in motion or kept in operation. Under his administration, the first of a series of Monastic Establishments has been completed at a ruinous sacrifice of the endowment, with no other apparent object than that of giving the University the paltry monopoly of the board and lodging of a handful of Students.

It is, indeed, an undeniable fact, that such establishments, formed on the Monkish model, are to be found at Oxford and Cambridge, but it is no less true that they have been the principal causes of the immorality which prevails to an alarming extent at these famous Schools, and they are now only tolerated as part of an ancient system,—the necessities under which they were instituted having long ceased to exist. In early times, the English Universities were not merely national, but were, in every sense, cosmopolite Institutions. During the middle ages, Students flocked to them as the Schools of eminent teachers, from every country in Europe. The vast concourse of Students occasioned a scarcity of lodgings and exorbitant demands for rent in the towns where they were established, and a serious difficulty was thus created to the poorer classes of Students, whose means were unable to meet the demands which the increasing celebrity of the Schools occasioned. The benevolence of individuals was stimulated to relieve the Students of a burden which many of them could ill afford to bear, by providing them with free lodging during the progress of their studies; and the domestication of the Students consequently became a prominent part of the system. Some of the Colleges had, indeed, been founded solely for the support of indigent Scholars, but the practice of domestication has been, in a great measure, perpetuated at Oxford and Cambridge by the illegal monopoly which the private Colleges have usurped over the national Universities. In every other country in Europe the system of domestication has been gradually, but certainly, relinquished as altogether unsuitable to the character and not required by the necessities of the times. The University buildings present nothing more than an aggregation of class-rooms in which the proper business of the University is conducted with reference to the public benefit, and not as Normal Schools for the training of Vice Presidents, at the public expense. It was reserved, however, for Canada to lead the way in a revival of those Monkish features of the ancient Universities, as if the more sincerely to evince the Puseyite tendencies of her population by the adoption of a system to which she was constrained neither by her necessities nor her interests.[*]

---

[*] The origin of the Collegial system was almost contemporaneous with the establishment of the ancient Universities, and was adopted from the University of Paris, which was the model upon which the English and most of the Continental Universities

It is with the *morale* of the system upon which the College Council are proceeding that we have at present to do. Their eccentric taste for architectural embellishments and economical arrangement, and the adaptation of their means to the end proposed, will be more appropriately discussed in the subsequent Chapter. But surely the people of Canada do not require to be warned against the fearful demoralization and licentiousness, which the system of domestication will inevitably introduce. We dare not stain our pages by more than a bare reference to those immoral practices, which notwithstanding the vigilance of an extensive police, prevail to an alarming extent at Oxford and Cambridge. The truth of the charges which have been frequently made against these Institutions has been lately established in the British Parliament by revelations from the personal experience of some of its most distinguished members. The hopeless insubordination that has hitherto attended Dr McCaul's administration will scarcely afford a guarantee for purity of morals at King's College under the monastic system, and under an enlarged sphere of action. Nor can any plea of necessity be adduced for so hazardous an experiment in a city where there exists sufficient competition among Boarding Establishments and ample accommodation for the largest influx of Students that could be anticipated, even were the University to accomplish the purposes for which it has been established by law.

The only argument to which any weight can be attached for retaining the system of domestication in the English Universities is, singularly enough, the only one which the Trustees of King's College seem to have despised—namely, the opportunities which it has afforded to indigent scholars of a complete course of academic instruction. To the honour of England it should be acknowledged, that she has offered facilities to persons from the very humblest walks in life for rendering themselves masters of all the knowledge that it was in the power of the most learned Professors to bestow, and it is a pleasing reflection that some of the greatest names which have adorned her Universities thus owe their greatness to her bounty. But to the ineffable disgrace of Canada, a noble endowment, which was calculated to afford to its youth a liberal education, adapted to the necessities of a young country, has been so frittered down and wasted by wilful extravagance, misapplication, and a base thirst for personal aggrandizement, that at the present moment she has not wherewithal to educate a free scholar at her University.

---

were formed. In Germany, the Collegial Establishments never obtained a decided predominance over the functions of the Universities. In the older Universities of the Empire, the system of Conventual Establishments only extended to the habitation, aliment, and superintendence of the youth, and such institutions were no where called into existence after the commencement of the sixteenth century. Prague, Vienna, Heidelberg, Cologne, Leipsic, and a few others, all possessed in early times, such establishments; but since the revival of Letters they have been unable to maintain any importance. In England, where they have long usurped the functions of the Universities, the Colleges have owed their stability to their immense wealth. The narrow system of tutorial instruction has accordingly predominated, and has tended, in a remarkable degree, to impair the efficiency of the Universities. This is no vague charge against these Institutions, but has been long a matter of complaint by their warmest admirers.

It would be unnecessary to waste argument on the system of general domestication, when the designs of its projectors are obnoxious to a more aggravated charge than that of imbecility. The attempt is subservient to the great scheme which the Council have cherished with undying affection,—to convert the University, by the instrumentality of domestic superintendence, into a nursery of High Church prejudice and intolerance. And in pursuance of this design, another purpose favourable to the same object will be effected. The buildings necessary for the proposed domestic accommodation, and which can never be adapted to any other purpose, will make such an inroad on the endowment as will effectually silence all demands for a participation in its benefits by the other Christian sects. The modification of the system which has been introduced until the monastic arrangements have been completed, has proved its perfect adaptation to the purposes intended. The aggregate fees of the Students during the first and second terms have been found just sufficient to cover the expense of their dinners; but the practice has afforded an admirable opportunity for introducing those venerable High Church toasts which lend their potent qualities to the small beer with which the Students are regaled on these festive occasions. The Vice-President, unwilling to put a stop to such virtuous ebullitions of youthful orthodoxy, has with much liberality granted dispensations to such of the Students as have interposed their prejudices to the general current of orthodox sentiment.

It was an ominous circumstance that the first step which was publicly taken in opening the University, should have been chargeable with gross and reprehensible deception. The Students were called upon to subscribe a declaration of obedience to the Statutes, Rules and Ordinances, framed under the provisions of the charter; and the Vice-President gave the sanction of his authority to this solemn mockery, under the full consciousness that not a single Statute had been passed by the Council which could in any respect affect the discipline of the institution. The Charter had indeed ordained that the discipline and government of the University should be enforced through the operation of Statutes; but as the Council had determined that the Charter should only take effect in so far as it favoured their sinister designs, they foresaw that they could outrage the law with more perfect impunity by transferring the government to an irresponsible officer than by placing that officer under the operation of illegal statutes, on the evidence of which they might have been brought to punishment for a betrayal of their trust.

The design of subverting the law by a secret evasion of the provisions of the charter was incautiously but strikingly disclosed in the Inaugural Address of the President, whose literary predelictions have so frequently proved disastrous to the "schemes" of his party. He alluded to the principles of the original charter in terms expressive of the value he attached to his own exertions in behalf of the Episcopal Church. He characterised it as "the most liberal that could be framed on constitutional principles,"—and denounced those who had struggled for equality of rights, and whose claims had received the sanction of a parliamentary modification of its exclusive provisions, as "turbulent spirits," who "had taken much pains by calumnies and misrepresentations to poison the minds of the people against the charter." He referred in terms of warm admiration to the resistance which the College Council had uniformly made to "the antichristian intrigues and dissensions" by which their designs had at length been frustrated. The London University, to which in some respects the Amended Charter had assimilated the University of King's College, he denounced as "an infidel attempt which had signally failed, as all such godless imitations of Babel ever must." "The same considerations," he observed, "also convince me that had the University been permitted to proceed under the Royal Charter without alteration, it would have been far more efficient for all the purposes intended, than in its present form." And he defended a recurrence to the original system on the ground that the Episcopalians were now entitled to an exclusive University, inasmuch as the other sects had recently evinced their exclusive predelictions by the establishment of Colleges adapted to the principles which they severally professed.

In such language did the highest Episcopal Dignitary in the Province and the Chief Executive Officer of the University, denounce the law under which the Institution had gone into operation, and daringly advocate its violation before the youth who had assembled under the anticipation of receiving that "complete and generous education which fits a man to perform justly, skilfully, and magnanimously all the offices, both public and private, of peace and war."* Was it to be expected that the law would be honestly acted on when its execution was left in the hands of one who had thus openly avowed himself an enemy to its spirit and principles—and who had resolved, within the limited sphere to which he had at last been driven, to re-enact the deeds which had for so many years impeded the progress of the country, and the moral and social advancement of its population? Was it to be tolerated that the same individual who had raised himself to the dignity which he then enjoyed by a long course of indirect persecution, and by resisting and trampling on the civil and religious rights of his fellow subjects, who had, by the "leprous distillment" of calumny and misrepresentation poisoned the ear of his Sovereign in regard to the loyalty of his countrymen, who had lived and battened on secret insinuations and charges of disaffection, should commence the public discharge of his duties in a national University by inculcating on the assembled youth disrespect and hatred of the law, and by avowing his determination to subvert its authority. If privileged insolence may thus claim protection in the possession of irresponsible power yielded by the slavish subserviency of his satellites, the law has been robbed of that majesty which gives it its highest claim to obedience.

The spirit in which the University was opened has already exhibited the fruits which it was so well calculated to produce. The absence of Statutes for regulating and enforcing a proper discipline has given an immunity to insubordination which has been quickly appreciated by the students, and has at length made the institution an object of unqualified scorn and derision. There is not a student within the walls who is not well aware that no Statute exists under which he can be legally punished for breach of discipline. It may flatter the vanity of the Vice President to assume the affected power of issuing "dispensations," "inhibitions," and "rustications," but every youth is aware that neither legal indulgence nor legal punishment is conveyed by these empty words—and that until Statutes have been passed for regulating the studies preparatory for degrees the arbitrary inflictions of the Vice President cannot affect his claims to University honors. The absolute failure of the series of miserable expedients by which the Vice-President has attempted to establish an exclusive personal authority ought to have convinced him, if his previous experience was insufficient, that an University must be governed on some settled principle, and not by the whims of a capricious temper. The impotent attempt to sacrifice the legal authority of the College Council to an inordinate passion for personal power has met with the fate which it merited, and would be a source of gratification, if its disastrous influence on the character of the University did not excite the most anxious apprehensions.

---

* Milton.

The Medical School,—in many respects the most important department of the University in the present position of the country,—has experienced to an alarming extent the effects of this mismanagement. In a country where the opportunities of acquiring Medical skill are so limited, it might have been expected that every means should have been adopted to render the education of practitioners easily accessible, and that in this department at least public necessity would have prevailed over senseless bigotry. But here also has the fatal influence of the Vice President extended to blight the prospects of the country by an ignorant interference with the duties of the Medical Professors, and by the application of his exclusive principles to a department whose free operation would have conferred immediate and lasting benefit on the country.

Under the present arrangements the only real benefit which the public can derive from the establishment of the Medical School, is the admission of "Occasional Students"—who may attend the lectures of the various professors but will not be entitled to any of the honours. To entitle the Student to Medical honours he must, previous to his professional course, have taken a degree in the Faculty of Arts. The Medical Student may thus study at King's College—he may reach the exact point of receiving Medical honours with advantage to himself and to the community, and with credit to the University—but the stamp of ability and knowledge to which by his attainments he may be justly entitled, will be withheld—he must practice in a low and subordinate position, or he must expatriate himself for a time—he must go to a foreign land and ask from a foreign University that degree for which his literary and medical education may have eminently qualified him—that he may be on a level with his fellow students who have gone through the same professional course, but whose religious principles, or it may be their scruples, have not prevented from taking a degree at an Episcopal University.*

---

* No part of the conduct of the Vice President has proved his incapacity for the position which he has assumed, so much as his ignorant and injudicious interference with the management of the Medical School; and as a necessary consequence no department of the University has suffered so materially in its interests. We shall have

The mismanagement of King's College affords a melancholy illustration of the disastrous policy of placing the administration of a law in the hands of parties who have an imaginary interest in subverting it. Had the spirit and intentions of the Amended Charter been fairly acted on—and had private interest not usurped the place of public duty, notwithstanding its very obvious defects—the Charter was sufficiently wide in principle to comprehend the advantages of a liberal education; but by its gross and fatal perversion a system has been introduced neither in harmony with the free principles which prevail in the country, nor consistent with the advantages of sound academic instruction. That dispensations from the rights and ceremonies of the Episcopal Church have been granted, is no answer to the charge of a recurrence to the original system—and of a betrayal of trust in imposing on the University an essentially Episcopal character. The very existence of dispensations is in itself at once an admission of this fact, and an assertion of superiority claimed in the University on behalf of the Church by which they are granted. Is not the granting of dispensations as a matter of favour an assertion that those who receive them are only entitled to the full privileges of the University by sufferance—and does not sufferance imply something of degradation?

But under what interpretation of the Amended Charter can any one Church claim an ascendancy in the University? If the Episcopal Church has a superior right, upon what possible grounds were the amendments made? The privileges of that church were already recognised by the original Charter—was the amended law, which was so strenuously resisted by the Council, necessary for their further security?

It has become sufficiently obvious, that before the University can fulfil the purposes for which it was intended, the parties who have grossly perverted the law and frustrated its intentions must be removed. The necessities of the country, the peace and prosperity of its inhabitants require that the majesty of the law

---

occasion in another place, to advert to his repeated attempts to degrade the position of the medical professors—and to the gross breach of faith to which he was a party, in the reduction of their salaries below the sums promised by a former Chancellor. But we allude more particularly, at present, to the systematic opposition which he has given to the arrangements proposed by Dr. Widmer and others in whom the country would have gladly reposed its confidence. It was characteristic of the Vice-President that, in opening the Medical School, he should have taken occasion to offer vulgar offence to Dr. Widmer and the medical professors, at a time when all parties were disgusted by his interference with matters regarding which he was profoundly ignorant. The failure of the Medical School has been the result.

If it be thought that we have prematurely attacked the system of exclusion before the Statutes have been passed, we have only to say, that we have proceeded on the universal understanding in the University, in regard to the admission of medical students. An application to the Bursar was made, at the commencement of the last term, on behalf of the Presbyterian body, to ascertain the conditions on which Presbyterian Students could be admitted to the privileges of the Medical School.—To this application an equivocal answer was returned after consultation with the Vice-President, to the effect, that the Statutes would be published. The fact that these Statutes were not in existence was attempted to be concealed, but the fact that they have not yet been passed proves the deplorable mismanagement under which the Institution is labouring, and by which its efficiency is impaired.

shall be vindicated by the signal punishment of the parties by whom it has been outraged. If conformity to the Episcopal Church were required by the law, there might be some reason for giving it an ascendancy in the University, as a national seminary of education. But when, on the contrary, the great majority of the inhabitants of this Province differ from that Church in doctrine, discipline and worship—when the other denominations are powerful in numbers, in influence, and in activity—embracing as they do nine-tenths of the enlightenment, the wealth and the stamina of the population—when there exists no difference in the civil rights, privileges and powers of the people on account of the religious opinions which they entertain—why should the same equality not exist in this seat of learning, by admitting all classes and denominations on the same principle of equality to a free enjoyment of its benefits in their studies, and afterwards to the reward and record of their merits in the attainment of its offices and honours. There is no monopoly of morals or good citizenship by any particular sect—why should civil privileges be confined to one denomination which only enjoys a share of the virtues that are equally diffused over all?

It is a bitter mockery to say that the various denominations of Christians are admitted *by sufferance* to enjoy the advantages of attending the lectures of learned Professors, in the prosecution of their professional education,—that *by sufferance* they may devote themselves to the acquisition of professional learning—that they may toil and labour in the prosecution of those studies which will fit them for attaining the honours that the University can bestow,—but, inasmuch as they will not submit to Episcopal discipline, they must look to the other Universities of America for conferring those titular distinctions which our own University withholds from native intelligence and learning, on account of conscientious convictions. Are the civil rights of the Canadian people thus to be gauged by the measure of their theological opinions? Are the creeds of our fellow subjects again to revive a system of negative persecution, and to be made a matter of punishment or reward? Is the great majority of the population to be placed under a sense of personal injury and to suffer a positive evil, by which they are to be retarded in the paths of professional life? Are honours fairly won to be refused on the ground of caste? Are the people to be exposed to the feeling that they are ill-treated by the laws of their country, and that they are precluded from the enjoyment of benefits which are open to others by the illegal regulations of an exclusive establishment? And, are all these practical injuries to be inflicted, not only without the sanction of positive law, but in flagrant and open violation of an express legislative enactment—by parties who, having signally failed in establishing a legal orthodoxy, seek to allure neophytes to Episcopacy by hiding the iron spirit of intolerance under the mask of dispensations and favours, which they will refuse to confer the instant they can discover that there is inability to demand? If the great purposes for which the University was established, have been thus grossly and unjustifiably perverted—if the law under which its Trustees were bound to act, has been thus scandalously violated—will it be said that there exists no power in the Constitution to bring the guilty parties to punishment, and to reclaim the Establishment from the errors of a disgraceful prostitution?

CHAPTER VII

ADMINISTRATION OF THE ESTATE

The Chancellor having returned their appointments to the Professors under such dates as fixed the order of precedence, the authority of the new Council was called into existence in October, 1843 Before adverting to the proceedings which have since taken place, it will be proper to give such a view of the administration of the Estate as can be obtained from the materials to which we have had access. The irregularities of the Bursar's office are not the only obstacles which exist to prevent a thorough understanding of the University affairs. A long course of maladministration has made the Council wary in furnishing details, and accordingly the Returns which have been made to Parliament are studiously mystified and defective. Sufficient materials may, however, be obtained to establish the character of King's College as the very Paradise of Jobs, even in a country where unscrupulous waste and misapplication of the public treasure have imposed scarcely any limits to cupidity and corruption

The first general investigation which appears to have been made into the state of the University affairs, was instituted by Sir George Arthur, as Chancellor, in 1839 In the course of that year an accountant was appointed to examine the Bursar's Books, and to report on certain alleged irregularities to which the Chancellor's attention had been directed.

It appeared that the Bursar's accounts of receipts and expenditure had been made up from loose memoranda, at first monthly, and afterwards quarterly—that the accounts themselves consisted merely of abstracts, and that the abstracts constituted the only record of the management of the Estate No care had been taken to test the accuracy of details by means of a balance sheet, and, in fact, no attempt had been made either to present the accounts in a detailed form, or to show the connection of income with expenditure The books themselves had been kept on no sort of system, and no connection existed between one book and another No rental had been kept and no register of the tenants' leasehold lands existed. Where complaints had been made by parties who had not received credit for payments, arrangements unfavourable to the Estate had been frequently made in order to conceal the absence of system In fact, every thing appeared to be in the most hopeless confusion, and evinced a degree of culpable negligence, which, but for the active interference of the Chancellor, would have speedily brought the Estate to ruin

It further appeared that large sums had been withdrawn from the funds of the Institution, for the private accommodation of the President, at first without any authority from the Council, and without any security having been given at the time; that, afterwards, notes of hand by parties in no way connected with the University, and which had been given to the President in the course of a private transaction, were deposited by him with the Council in security of the loan In connection with this transaction, and as throwing light upon the system of management which existed previous to the year 1840, a despatch from the Right Hon. C. Poulett Thomson to Lord John Russell is subjoined:—

"Government House, Montreal,
"2nd May 1840.

"My Lord,—I observe by the papers that, on the 30th March last, Mr. Pakington took occasion in the House of Commons, to ask your Lordship certain questions in regard to the Bishops of Montreal and Toronto. With respect to the latter, he is reported to have said, that Dr. Strachan had been deprived of his salary as President of King's College in consequence of his appointment as Bishop, contrary to the agreement made with him when he accepted the Episcopal office, a proceeding which he described as cruel and unjust.

"It is evident that if these expressions were used by Mr. Pakington, it must have proceeded from his ignorance of the circumstances under which the salary of the President of King's College was discontinued. I feel it, therefore, my duty to state those circumstances to your Lordship as I gathered them whilst in the Upper Province, as well as to bring to your notice some others relating to the connexion of the Bishop of Toronto with that establishment, which I had hitherto delayed doing, from a disinclination to enter upon transactions which I cannot consider creditable to the parties concerned.

"Your Lordship is aware, that many years ago a Royal Charter was passed for the establishment of a University in Upper Canada, and that by that instrument the Archdeacon of York was appointed *ex officio* President.

"From various causes which have, at different times, been fully reported to your Lordship's predecessors, the institution, notwithstanding that it enjoyed a considerable endowment, was not then, nor has it been since, brought into operation. Nevertheless, officers were appointed, principally for the management of the Estate, and salaries were assigned to them; a salary of £250 sterling was also attributed to the President. At what period Dr. Strachan first received this salary, I am unable, without reference to Upper Canada, to state, but the records of the Colonial office will supply the deficiency. From the enclosures, however, to Sir George Arthur's despatch to your Lordship, of the 8th June, 1839, you will perceive that, up to that date the Bishop had continued to draw it.

"But in the course of last year an investigation having been instituted by Sir George Arthur into the management of King's College, the fact that the President was annually drawing from its funds an income of £250 sterling, was brought to his notice. Considering that no duties of any kind beyond those of other unpaid members of the Council were attached to the office—that there was no immediate prospect that the Institution would be put into operation—and that every shilling taken from its revenues was so much deducted from the means of education in Upper Canada, already most deficient, it appeared to him impossible any longer to permit such an appropriation of its funds. In this opinion I entirely concur, and I am confident that your Lordship will approve the course which Sir George Arthur adopted. It is, indeed, difficult to understand how the considerations by which he was actuated, should so long have escaped the notice of the Bishop himself.

"But the enquiry into the state of King's College, and the production of some returns called for by the Assembly, brought out other irregularities in the management of the Institution. Thus it appeared that the accounts of the Bursar were very much in arrear, and it became necessary, therefore, to remove him and to appoint another officer in his place; and it was also shown, that a very considerable sum had been borrowed from the funds of the University by the President for his private purposes, on the security of various notes of hand, and that several of these notes had not been paid when due

"Upon my entering on the duties of Chancellor of the University, the finances of that body naturally demanded my attention, and I was compelled to institute some enquiries respecting the accounts which were rendered to me

"This correspondence I now enclose, and I have only to say, that it was not without considerable hesitation that I could satisfy myself with only recording my opinion in the Minute to the Council, which closed it, instead of proceeding to further measures.

"I have, &c ,
"C POULETT THOMSON

"The Right Honourable
"LORD JOHN RUSSELL, &c &c"

The enclosure referred to in the despatch was a letter to the Bursar in the following terms —

"TORONTO, *February* 15, 1840

"SIR,—Your letters of the 11th, 12th and 14th instant have been laid before the Governor General, together with the enclosure With reference to the defalcation in the accounts of the Treasurer and the omission to take security from that officer, his Excellency is sorry to find that no remedy now seems possible, and it is only to be hoped that the property of the late Treasurer may be found sufficient to prevent ultimate loss to the University

"With respect to the loan of money stated to have been made to the Bishop of Toronto upon the security of certain notes of hand and upon the subject of which in addition to your remarks, a letter has been transmitted addressed to yourself by the Right Rev Prelate, I am commanded to inform you that his Excellency the Governor General feels himself compelled to record his opinion for the information of the Council.

"His Excellency wishes to abstain altogether from the consideration of the circumstances under which the loan was sought, alluded to in the letter of the Right Rev Prelate, and upon which he had neither the desire nor the right to require any explanation The points upon which he is called upon to express an opinion, as Chancellor of the University, are the circumstances under which the loan was made by the Council, and the action that has been taken upon the securities given.

"It appears that a loan of a considerable sum was made by the Council to one of the members of the Board, such a proceeding his Excellency cannot by any means view in the light of an ordinary money transaction The employment of the funds of a public trust by one of the trustees for his own advantage is a proceeding which, in his opinion, is highly objectionable, and calculated to destroy the confidence of the public in the management of the University.[*] With regard to the second point, his Excellency regrets to be obliged to remark, that a proper course has not, in his opinion, been pursued It appears from the statement, that no less than eleven notes of hand are over due, of which three have been due since the year 1837, three since 1838, and the remainder since the 24th December, 1839 In business of this kind, punctuality should always be observed but in the affairs of a public trust, a scrupulous regard to it appears above all things desirable If a note of hand be not discharged at maturity by the party first liable, the simple and ordinary course is to call upon the endorser (if any) to do so No such steps seem to have been taken, and the signatures of these bills have been permitted to remain dishonoured, some of them for a very considerable time

---

[*] In England such a transaction would be visited with severity in a Court of Equity. (*Note to the original minute.*)

"I have, &c ,

"T W C MURDOCH,

"*Chief Secretary*

"Dr. Boys, *Bursar* "

The last returns to Parliament of the University's affairs, were prepared in May, 1843, and laid before the Legislative Assembly in October of the same year They professed to give "a statement of the affairs of the University of King's College, and also of Upper Canada College, for the years 1839, 1840, 1841, and 1842,"—but the manner in which they were prepared, so successfully defeated the objects of the Legislature in calling for them—that both Houses found it necessary to appoint Committees for the purpose of making further investigations, by the examination of books, papers, and persons. This examination was in progress, and evidence of an extraordinary character had been elicited, when the investigation was unfortunately arrested by the proceedings which terminated the last Session In these circumstances, our Financial statement must necessarily be very imperfect, but we are fortunately enabled to throw such light upon some parts of the statement of the College Council, as may enable the public to form a fair judgment on the merits of their administration.

		Acres
The original endowment of King's College amounted to -		225,944
Of which there have been sold, up to 31st December, 1842, - -		110,610
Leaving on hand, - - - - - -		115,334
Of which there were on lease, - - - - - - - -	95,334	
And unoccupied, - - - - - - -	20,000	

The sales were commenced in the year 1828, and their number has amounted to 909, in fifteen years. The number of acres sold has varied in different years according to the exigencies of the trust In some years the number of acres sold did not exceed 350, while in another, and at so early a period of the trust as the year 1835, no less than 18,088 acres were disposed of In 1829, there were 11,863, and in 1833, there were 13,568 acres sold The average price received between the years 1828 and 1842, was 22s. 8d per acre

It thus appears that before the University had gone into operation considerably more than one-half of the original endowment had been disposed of A fact so startling will naturally lead to the enquiry, under what authority did the College Council proceed in the absolute disposition of lands which had been appropriated for the purposes of education, and what extraordinary circumstances could warrant a proceeding so repugnant to the well known principles of law, and so inconsistent with the purposes for which the endowment was made?

In a legal point of view, there cannot be a doubt that every sale which has

been made a void. The Grant gives the Council no authority to sell, and the Charter is equally silent.

The administration of the endowment must, therefore, be subject to the common principles of law which govern similar foundations. Although the University of King's College may, in some respects partake of the nature of a civil corporation —as, for instance, in respect of its Professors who have stipends annexed to their chairs *pro opera et labore*—yet the purposes for which it was established give it in some respects all the character of an eleemosynary foundation. It was instituted for the purpose of imparting assistance to its members in the prosecution of their studies, and, in the administration of its estate it is, therefore, subject to the principles of law which regulate corporations for charitable purposes.

Now, the Trustees of an eleemosynary foundation are not authorised by law to make an absolute disposition of any part of the estate. The Court cannot authorise such a disposition, and Parliament itself will not go so far. Acts of Parliament have been sometimes obtained to authorize the exchange of an estate belonging to a charity for another, but in no instance, so far as we are aware, has an act been passed for converting such estate into money.

The Court of Chancery has invariably declined to sanction a sale where the authority to sell is not given by the instrument under which the Trust is constituted. And even where an implied power may exist, the Court will not interpose its sanction without sufficient proof, as well that the sale is consistent with the provident Administration of the Estate as that it is rendered necessary by the situation and circumstances of the Trust.

But what possible circumstances could arise consistent with a conscientious Administration of the Estate under which the College Council was constrained to dispose of a single acre of the Endowment? The University did not go into operation for fourteen years after the grant had been made; a separate provision had been given for the erection of the necessary buildings, lands immediately available and already under lease had been exchanged for the original Endowment; an income of more than £1,000, per annum, was obtained from rents during the first year of the Trust; the annual income notwithstanding the diminution of the Estate, had gradually increased to about £12,000—far exceeding the necessities of the Institution—and yet, in spite of these advantages, the College Council have found it necessary to maintain their solvency by disposing of by far the most valuable portion of their Endowment, namely, the lands under Crown leases with all their valuable improvements, before a single lecture was delivered in the University.

The necessities under which the Council have suffered have not merely been of their own creation but have been caused by a violation of trust of the most flagrant and nefarious character. A sum of £250 per annum was given for upwards of 12 years to one of his colleagues in the discharge of his duties as a Trustee—the same Trustee was privately accommodated with loans to a large amount—an expensive but unnecessary establishment of clerks was kept up for the benefit of the Bursar, whose subserviency has been all along purchased by pickings and perquisites—the pretext for keeping up this establishment was sanctioned by the system of sales of the Estate—the sales themselves being not only unnecessary, but perpetrated in fraudulent breach of trust—and, notwithstanding the ruinous diminution of the Estate, the Council have little more to exhibit of the proceeds than a wretched boarding house for the accommodation of twenty-four students—an avenue—and a large amount of irrecoverable arrears of rents and instalments.

It is notorious that the manner of conducting the sales has been no less illegal than the principle upon which they were effected. At various periods of the trust, a determined opposition has been given to the sale of land by various Members of the Council, who have succeeded in putting an end in open Council to a practice which has, notwithstanding, never ceased in the Bursar's Office. A great portion of the sales has accordingly been made without authority of the Council, and during the course of the last year nearly 10,000 acres were disposed of when the authority of the Council was in abeyance. The sales have at no time been made under statute of the Council as required by the Charter, and indeed such have been the pressing necessities of the Council, that valuable lands have been frequently disposed of, at prices greatly below their real value, for the sake of an immediate instalment, and no great anxiety has been exhibited in securing the balance of the purchase-money.

The disbursements of King's College, from the year 1828 to 31st December, 1842, were as follows:—

Assistance given to Upper Canada College, in fourteen years, exclusive of interest, amounted to -	-£40,130	4	4½
Purchase of the Site of the University, College Avenue and Grounds, Improvements, &c. - - -	13,148	1	9
University Buildings &c - - - - -	8,731	10	5
Management and Incidental Expenses, - - -	14,787	15	2½
In all, - - - -	-£76,797	11	9

In the Parliamentary Returns no details are given, from which the liabilities of the University can be ascertained. It is certain, however, that at the date the Returns were made the obligations of the Council were considerable, and under the head of "University Buildings," &c., upwards of £10,000 were disbursed in the course of the year 1843. In the absence of the details, which were necessary to give any value to the accounts, it is difficult to make precise allegations of mismanagement and misapplication, but we are greatly within the mark when we say, that upwards of £100,000 have been disgracefully squandered out of the Endowment, before a single lecture was delivered in the University. That no part of this sum has in any respect benefited the Institution, will be sufficiently obvious on an examination of the various heads of expenditure.

UPPER CANADA COLLEGE.—The origin of this Institution has been noticed in the General History of the University. Its management having been placed in the hands of the College Council, it has participated, to a large extent, in the character which has attached itself to the University with which it was incorporated by the amended Charter The minor College has been chiefly useful as a school for providing education, at a cheap rate, to the children of the higher classes. During the fourteen years in which it has been established, it has received a Parliamentary grant of £1000 sterling, per annum, and although it has also derived a considerable income from its own munificent endowment and from the fees of the Students, during the same period it has drained the University to the extent of £40,000, exclusive of interest Although the dues had been fixed at a very low rate, yet, owing to gross negligence in their collection and a system of favouritism practised towards individuals, the sum of £6400, for dues, was given up as in arrear on 31st December, 1842 So long as the College Council have had the endowment of the University to fall back upon, the minor College has been sustained with a profusion of external means without a parallel in any school in Great Britain. The average number of pupils has for some years been about 150, of which 100 have been day pupils, and 50 boarders. The Establishment supports no fewer that 11 Masters, exclusive of visiting Teachers, giving an average of 13 pupils to each. The salaries of the Masters are as follows

Principal of U C College, - - - - - - - -	£666
Three Classical Masters, at £333 each, - - - - - -	999
Mathematical Master, - - - - - - - - -	333
French Master, - - - - - - - - - -	333
Two English Masters, at £194 and £128, - - - - -	322
Master of Preparatory School, - - - - - - -	191
Matron of Boarding House, - - - - - - - -	75
Drawing Master, - - - - - - - - - -	100

The dues for tuition are the only dues which are paid into the College funds. The Boarding Establishment is in the hands of one of the Masters, and the College Council is responsible to him for the deficiences arising either from remissness or favouritism in the collection The stationery used by the pupils, and the expense of keeping in repair the buildings, &c, have been defrayed by the Council. The annual charges of the Establishment have amounted, for many years, to upwards of £4000 Taken on an average of the four years preceding December, 1842, the dues for tuition have amounted to £1131 per annum. The sum actually collected has, however, fallen far short of that amount It thus appears that, independently of its own endowment and the College dues, Upper Canada College has received assistance from Parliament to the extent of £1000, and from the University to the extent of £2700 per annum In the evidence lately given before a Parliamentary Committee, by Dr McCaul, who was Principal of Upper Canada College for upwards of four years, and *ex officio* a member of the College Council, he admitted that if an offer of £1000 per annum, with a promise of keeping the buildings in repair and the grounds in order, had been made, the inducement would have been sufficient for a highly qualified Master to undertake the superintendence of Upper Canada College. The exertions which he has made, however either in the capacity of Principal, or as Trustee of King's-College, to reduce the expenditure are unknown to the public.

and, it is believed, have not been greatly felt by either Institution. During the course of 1843, when a vacancy existed in the office of Principal, he attempted a characteristic modification of the system, which was intended to have the effect of uniting the various offices of Principal, Vice President, and Professor in his own person. This attempt failed in the manner which will be afterwards adverted to. At present, it is sufficient to mention, that in the face of repeated remonstrances to the late Sir Charles Bagot against the appointment of a Principal, on the ground of the unnecessary expenditure, and the unfitness of any of the Masters to fill the situation, in which the President of the University concurred, with an emphatic denial of the Chancellor's legal right to make the appointment, the same influence was used with Sir Charles Bagot's immediate successor, to secure the office to the present Principal, whose superior qualifications as a pliant tool, were at length discovered to be available in carrying out the intrigues of the College Council.

UNIVERSITY BUILDINGS.—No portion of the buildings necessary for the proper business of the University has yet been commenced. The buildings formerly used by the Legislature of Upper Canada having afforded temporary accommodation for Lecture-rooms, Library, &c. In pursuance of the design of reducing the endowment, by the erection of Conventual Establishments for the domestication of the Students, the Council have expended the sum of £10 000 in the erection of a boarding-house. This building is as yet unfurnished, so that no estimate of the entire expense can at present be made. A sum of £1500 has lately been expended on a range of water closets, yet the building, when completed, is calculated for the accommodation of only 24 Students. The Council have it in contemplation, should a speedy sale of the Endowment be effected, to continue the series of monastic establishments for the accommodation of Students and Professors, and have held out to certain members of the Council the prospect of superior private accommodation as an inducement to vote the sale of lands. In the meantime, they will proceed to erect an Episcopal Chapel and Hall, in continuation of the present building. The expense of buildings for the domestic accommodation of 100 Students may be estimated at about £50 000, or about one-half of the remainder of the Endowment. The great advantage expected to accrue from this scheme will be the absorption of the available funds for High Church purposes, in order to frustrate any attempt to obtain a participation in the Endowment by the other Christian sects. To enable the Council to accomplish this nefarious scheme, they have lately opened up their sales which can now be effected in the Bursar's office without the necessity of an application to the Council. Whether parties will run the risk of purchases which are void in Equity remains to be seen. There can be no doubt, however, that every purchaser will be guilty of a participation in the fraud. The building already erected, is understood to have been finished under the careful superintendence of the Vice President, and is a happy specimen of that peculiar style of architecture and internal economy which affords the least possible accommodation at the greatest possible expense. For the purpose of giving external symmetry to a building utterly devoid of architectural grace, the upper range of apartments have been so constructed that the windows are exactly on a level with the floor—apartments of a few feet square have three of their walls constructed of cut stone, and a great portion of the interior has been deprived of all the benefit of light. The building has, on the whole, been regarded as a curious monument of the imbecility of the Council, and is a striking instance of the impropriety of placing the administration of a public estate in the hands of a few Clergymen, whose profound ignorance of business is the most venial of their errors. The erection of this building was accompanied by one of those disgraceful "Jobs," without which the Council seem to consider their schemes as altogether incomplete For the purpose of evincing their partiality towards a favourite contractor, the tenders were not accepted till nearly three years after they were made When the tenders were made, labour and materials were high When the work was commenced, the price of labour had greatly fallen, and although it was known that the building could have been finished for two or three thousand pounds less than the price originally tendered, the tenders were then accepted and the contracts entered into. An architect was employed to superintend the erection of this building, and his services have been retained for an indefinite period, at a salary of £200 The labours of this individual, who may be regarded as a permanent officer of the Establishment, seem to be principally dedicated to the amusement of the Vice President, and to the gratification of his frivolous taste with pictures and plans of buildings, for the erection of which there is, fortunately neither necessity nor means. The other buildings upon which the funds of the University have been frivolously squandered and misapplied, are an Episcopal Chapel and an Anatomical Theatre. The chapel was fitted up by the Vice President when the authority of the Council was in abeyance Although only intended for temporary accommodation, the sum of £500 was devoted to this illegal purpose The Anatomical Theatre cost about £300 and was also erected under the superintendence of the Vice President, whose versatile genius, "though equal to all things, for all things unfit," seems to range, undismayed by its own ignorance, over every department The object of this building was to secure the domestic accommodation of the Bursar in the University, and his co operation in the schemes of his patrons The Theatre was otherwise wholly unnecessary, and its plan and purpose were carried into effect in opposition to the wishes of the Medical Faculty

EXPENSES OF MANAGEMENT —The principal feature under this head is the Bursar's Office The statement of the annual expense of this department is as follows —

Bursar's Salary, - - - - - - -	£400	0	0
First Clerk, - - - - - - - -	175	0	0
Second do. - - - - - - - -	150	0	0
Extra do - - - - - - - -	136	17	6
Messenger, - - - - - - - -	50	0	0
Sundries, - - - - - - - -	288	2	6
	£1200	0	0

This estimate was made for the years preceding 1843 the expense has since considerably increased. This Establishment has all along been a nest of petty sinecurists. The employment of Clerks has been almost solely occasioned by the illegal sales of land. Were these sales put an end to, the Establishment could at once be reduced. Although the Bursar enjoys other perquisites from his patrons in the Council, yet his salary is extravagantly large, and is amply sufficient of itself for the maintenance of the Establishment. Under the corrupt system of management, which exists perhaps to a greater extent at the present moment than at any former period of the management, all the important business of the University is transacted in the Bursar's Office, without any consultation with the Council. The Bursar, in a private consultation with one of his patrons in the Council, may in one hour dispose of every acre of the endowment, and it is notorious that large sales have been frequently made at sums much below the value of the lands. The real power of the Bursar is virtually worthless, but it is raised into omnipotence when combined with the advice and instructions of the President and Vice President. It is an important fact, that at various periods of the trust, the Bursar has kept private accounts between the lands of the University and certain members of the Council, which accounts have not been patent to the other Trustees. His subserviency and co-operation have been purchased by petty favours at the expense of the trust. He has been appointed Steward for the superintendance of the Hall Dinners, with a salary of £60, and for the purpose of giving him a free house to which he had no claim, the Medical Faculty has been deprived of Lecture Rooms and other accommodation in the University. Perhaps the most corrupt feature in the management, is the Bursar's Office. Under colour of a pretended discretionary power, which would be illegal if it did exist, but which is at all times at the service of two members of the Council, every species of jobbing and intrigue is carried on. The entire management of the estate seems, indeed, to be carried on upon a system of patronage. The other expenses of management have increased to a ruinous extent since the opening of the University. The Vice President's expensive taste for lackeys and domestic officials burdens the University with the annual sum of about £1000. The aggregate fees of the Students, during the first and second Terms, amounted to about £560. This sum merely covered the amount paid to Dr Boys, as Steward, and was exclusive of attendance, &c., which yield the Bursar other emoluments. The expense of keeping in repair the avenues and grounds amounts to £350 annually. When the Monastic Establishment shall be placed in operation, the maintenance of an efficient police may be expected to be a formidable item in the expenditure.

INVESTMENTS.—One of the most flagrant instances of violation of trust of which even the College Council have been guilty, occurred in their recent loan to the Cathedral Church of Toronto. The unvarnished history of this transaction is as follows:—The Churchwardens finding their resources utterly exhausted, and being without the means of raising an additional shilling on the security of the Church, applied to their friends in the College Council for an advance of £4500. Such an investment was of course illegal from the funds of a trust, but the College Council being virtually composed of Episcopalian Clergymen, the affairs of the

Cathedral were to them matters of much interest. Previous to this application the greater part of the available assets of the University had been invested in Government Debentures bearing interest at six per cent., but as the desire to bestow liberally on the Cathedral blended harmoniously with their own interests, the means of propping its declining fortunes were speedily discovered and most unscrupulously used. The requisite amount of Debentures was transferred from the archives of the University to the hands of the Churchwardens, and as the transaction was regarded as a pious accommodation to friends *legal security* was neither asked nor obtained. But the enormity of this fraudulent transaction is to be found in its connection with a collateral circumstance. *On the very day that the Debentures were transferred to the Churchwardens, a negociation was opened and completed by the College Council with one of the City Banks for a loan of £4000, to meet the pressing necessities of the University.*

Income of the University.—In the Returns submitted to Parliament, the College Council have estimated their annual income, as on the 31st December, 1842, at £11,359 7s. 5d. In the particulars of Income the University is credited with the interest on Government Debentures to the amount of £38,000, but upwards of £10,000 of Debentures have since been disposed of. There can be no doubt that, under a proper system of management, the Endowment would yield the sum stated, and that if the Estate still in existence could be preserved, its increasing value would keep pace with the educational necessities of the country. The estimate of the Council has, however, been formed on a wilful misrepresentation of their true position. Arrears of rents have been allowed to accumulate to the amount of £16,798, and the instalments of purchase money now due amount to no less a sum than £51,747. It has been the practice of the Council to allow the purchase money to remain in the hands of purchasers as long as they pay interest, and in cases where the parties were considered sufficiently simple to submit to the imposition *usurious interest has been charged*. As the arrears of interest already amount to £18,000, some conception may be formed of the improvident management to which the Estate is subjected. It is, indeed, notorious that an immediate instalment will at any time tempt the Council to sell at almost any price, and the remainder of the purchase money is transferred to the depository of arrears. The greater portion of these arrears are irrecoverable; but the Council credit their income with interest on large sums the principal itself being irrecoverable. No attempt, however, is made to reduce the expenditure to the actual income—but an imaginary income is arranged by the Bursar, and the heavy deficiencies caused by negligence and corrupt management, are filled up by fresh attacks upon the capital. This system is explained in a note to the last returns: "In providing for the annual expenses of the University, we must avoid entrenching upon the portion of these receipts (of proceeds of land sold, interest, and rents) which should be reserved as capital, on the other hand, we *need not confine our expenditure to the amount of rent and interest actually received*, for, from the mode in which we sell property by instalments, the interest on which is receivable only as the instalment becomes due, and not annually upon the purchase money outstanding, we may fairly expend part of the early instalments received, in anticipation of the interest accruing on the more distant instalments, which, when they become due, yield their accumulated interest.' The introduction of this note was intended to give an air of plausibility to a system of spoliation. No attempt has ever been made by the Council to adapt their expenditure to the amount of rent and interest either already received or anticipated. The expenditure has recently borne a due reference to the available capital in the hands of the Bursar, and were the same profuse expenditure to be continued, a very few years will be sufficient to swallow up the Endowment.

The existing Constitution of the Council is in every respect favourable to the designs of certain of its Members. Owing to the absence of the Law Officers of the Crown, the management of the University has fallen into the almost uncontrolled possession of a few Clergymen, who, profoundly ignorant of their value, are recklessly disposing of lands in various parts of the Province, and are binding the Estate by contracts for buildings and imaginary improvements to meet which no available means exist. Since all hopes of retaining exclusive possession of the Endowment have been shut out, the rashness and extravagance of the Council have known no bounds,—they have not concealed their design of impairing the Endowment before Parliamentary interference can be effected,—and there is every reason to fear that their nefarious designs may to a certain extent, be successfully executed, unless measures are immediately adopted to put a stop to their reckless proceedings.

NOTE.—It was our intention to have carried our narrative over the proceedings of the new Council which has been formed under the Charter; but, for several reasons, we abstain from doing so at present. The short period, however, that has elapsed since the formation of this body, has been sufficient to develop its true character, and, as the whole of its recent proceedings are likely to be made the subject of parliamentary investigation, we think it advisable not to anticipate the verdict of the country. When this investigation shall have been made, we feel assured that the result will warrant a Supplementary Chapter to our history.

In the mean time, it is due to the disinterested minority in the new Council to state that the profligacy of the old management has not intruded itself upon the new, without a strenuous and honourable opposition. It will scarcely appear surprising that persons, some of whom had recently arrived from England and were in no degree versant in the corrupt practices of the College Council, should have shuddered at the idea of commencing their Trusteeship with wholesale misapplication of the revenues of an educational endowment, or that the check which they gave to a base system of plunder should have aroused the vengeance of the perpetrators. We shall yet have occasion to disclose some extraordinary circumstances in reference to these proceedings, and in particular to the secret and cowardly *misrepresentation* by Dr. McCaul to the Chancellor, of the manly conduct of two of his colleagues—Professors Gwynne and Croft, by whose dismissal, without a hearing, he hoped to have put an end to a high minded opposition to his designs upon the institution. Signal as was his discomfiture, in the refusal of the Chancellor to be made a party—the *attempt* will form a dark stain upon the early history of King's College as a literary institution. It must be recorded that its Vice-President signalized the commencement of his usurped power by an attempt to crush two of the Professors having seats in the Council, because they had dared to exercise their rights as British Freemen in representing to the Legislature of their country that in consequence of the Union of the Provinces and the consequent absence of four of the members of the Council, the Charter had become partially inoperative. The extraordinary Vice-President, with childish impetuosity, seized the first rumour of the retirement of the late Ministry to represent to the Chancellor that such a proceeding called for the signal punishment of the petitioners, because, forsooth, it was *unprecedented!* Good heavens, Dr. McCaul the arbiter of our civil privileges! With what nice discrimination the shrewd wisdom of Bacon described a set of characters who seem to have ever had an owl-like propensity to frequent the seats of learning—and who, "knowing little history, either of nature or time, did out of no great quantity of matter, and infinite agitation of wit, spin cobwebs of learning, admirable for the fineness of thread and work, but of no substance or profit." If the leisure of frivolous pursuits will permit the investigation, Dr McCaul will find abundant precedent for an Academic Petition to the Legislature even in the Institutions which he affects to admire without the ability to understand. We shall supply him with at least one remarkable instance.

On 21st March, 1834, Petitions to both Houses of the English Legislature were presented by Earl Grey and the Hon. Spring Rice respectively, from sixty-three members of the Senate of Cambridge, all of whom were members of the Established Church of England. They were signed by two Heads of Houses, by ten Professors, (among whom were some of the most eminent members of the University of Cambridge,) and by eleven Tutors of the different Colleges. In reference to the character of the parties by whom the Petition was signed, it will be sufficient to state, that, among the Professors, were Airy, Musgrave, Lee, Hewett, Babbage, and Sedgwick, the last of whom had the year before distinguished himself by an eloquent, and by Cambridge men thought to be a triumphant and unanswerable defence of the character, studies and pursuits of Cambridge. Among the Tutors were Messrs Peacock, Bowsted, and Thirlwall—the latter one of the most eminent classical scholars in Europe. The Petitioners in fact embraced the great majority of the intellect and talent of the University. They complained generally of the system which exists at Cambridge, and which they considered inconsistent with and prejudicial to the interest of the University, and to the general interests of religion. They commenced their Petition by declaring their honest and sincere attachment to the Established Church, and to the University, but that "they are impressed with a conviction that no system of civil or ecclesiastical policy was ever so devised by the wisdom of man, as not to require, from time to time, some modification from the external circumstances, or the progress of opinion. In conformity with these sentiments, they would suggest to your Honourable House, that no Corporate Body, like the University of Cambridge, can exist in a free country in honour or in safety, unless its blessings be communicated to all classes as widely as is compatible with the Christian principles of its foundation." The Petitioners then proceed to state, that, "among the changes which they think might be at once adopted with advantage and safety, they would suggest to your Honourable House the expediency of abrogating, by legislative enactment, every religious test exacted from members of the University before they proceed to degrees, whether of Bachelor, Master or Doctor in Arts, Law, and Physic." "Your Petitioners conscientiously believe, that if the prayer of this Petition be granted, the great advantages of good academic education might be extended to many excellent men, who are now, for conscience' sake, debarred from a full participation in them, though true friends to the Institutions of the Country; and your Petitioners are convinced, that this is the best way at once to promote the public good, and to strengthen the foundations of the Civil and Ecclesiastical Policy of this Realm. The University is a body recognized by the law of England as a lay corporation, invested with important civil privileges, and on that account resting on no secure foundation which is not in harmony with the moral system of the State. Your Petitioners, therefore, humbly beg leave to suggest that as the legislative bodies of the United Kingdom have repealed the Test Act, and admitted Christians of all denominations to seats in Parliament, and to places of dignity and honour, they think it both impolitic and unjust that any religious Test should be exacted in the University previously to conferring the civil privileges in the degrees above enumerated." Such was the change prayed for in a Petition to the Legislature, emanating from the very bosom of the University of Cambridge—from men of the highest attainments in literature and science—eminently distinguished for collegiate usefulness and University honours: all of whom were deeply pledged and deeply interested in the welfare of the University, and responsible for the due administration of its affairs! and yet a memorial by two of the Professors of King's College, Toronto, simply representing that political changes in the Province had rendered its Charter in some respects inoperative, is made the subject of a secret complaint to the Chancellor, by a weak, but arbitrary, Vice-President, who vainly imagined that he had discovered in this constitutional proceeding the source of vindictive triumph. Was utterance given to a malignant expression by the Duke of Gloucester, Chancellor of the University, when the Cambridge Petition was presented to the House of Lords? Was it thus that the same Chancellor regarded a subsequent Petition to the Legislature from some of the *Undergraduates* of Cambridge? The memorable words which the Royal Duke used on the latter occasion, should speak daggers to the breast of the Reverend John McCaul. "Young man," said his Royal Highness, to one of the Undergraduates who waited on him privately with the Petition, "I disapprove of *Undergraduates* sending Petitions to the Legislature; but I cannot refuse,—admiring as I do the religious feeling that has actuated the Bachelors and Undergraduates,—to act upon the zeal with which I am urged, and the peculiarity of the case. *I have been an Undergraduate myself, and am now your Chancellor—and I will advocate your cause, and present your Petition.*" In similar circumstances, Dr. McCaul secretly suggests to the Chancellor the dismissal of two of his colleagues, because their Petition was "unprecedented!"

If Professors Croft and Gwynne had prayed for a change in the constitution of the University, as was done in the Cambridge petition, the fears of the High Church party might have been justly alarmed; or if the matter could have been considered within the walls of the University with hopes of ultimate success, if any power had been inherent, either in the Chancellor or Council, to grant the prayer of the petition, a Vice-President of too narrow intellect to grasp a constitutional principle might have been pardoned for offering a remonstrance to his colleagues, on their passing over the legitimate and academic mode of attaining their object; but had he consulted the practice of those Institutions of whose internal government he seems to be absolutely ignorant, he could never have hazarded the assertion that the proceeding was "unprecedented." From the earliest times, objections have been made by members of the English Universities to the practices which prevailed at them, and charges of mismanagement have been brought in no very measured terms. In Acts of Parliament, and in Letters from the Crown, complaints have been made of their absurd regulations. The Preamble of an Act passed in the Reign of Edward VI., very justly begins with declaring "that the ancient Statutes of the Universities are obscure, unintelligible, and semi-barbarous, and that others more intelligible, and fashioned more according to the condition of the times, and to the practice of the new learning, have become requisite." (See Dyer's Academic Unity.) The Vice-President of King's College, Toronto, only sees in such objections an insult to the Chancellor and an "unprecedented" proceeding!

But the *real* ground of complaint lay in the honourable opposition given by these gentlemen to the disgraceful and ruinous system of mismanagement which has made the University of King's College a by-word in the Province. Dr. McCaul found it impossible to secure their co-operation in passing a Statute for the Vice President's aggrandizement at the expense of the other Professors; and nothing but dismissal could atone for so serious a personal injury. An effort was privately, but ineffectually, made to prevail on the other members of the Council to join in this mean and miserable conspiracy; but the proposal was indignantly spurned by all, except the Bishop of Toronto, who readily shared the odium of the charge and the disgrace of its signal defeat.

During the Chancellorship of Sir Charles Bagot, a Schedule of Salaries and Duties was laid before his late Excellency by Dr. McCaul, and which was professedly framed in reference to a statement of the income of the University. In that Schedule Dr. McCaul estimated his own services, as a Professor, at £400—while the sum of £250 was attached to the office of Vice President. Sir Charles Bagot reduced the salary of Vice-President to £150, and raised that of the Professorship to £500—thus meeting in another form Dr. McCaul's own ideas of his importance. A Statute was prepared by Sir Charles Bagot in accordance with this appropriation, and transmitted to the Council. *This statute was intercepted and cancelled*—the Chancellor's severe illness having offered a favourable opportunity for defeating his intentions. On the arrival of Sir Charles Metcalfe, a new Statute was framed by the parties in Toronto, in which, taking advantage of the addition made by Sir Charles Bagot to Dr. McCaul's salary, as a

Professor, the sum stated was £500, and also taking advantage of Sir Charles Metcalfe's ignorance of the former Chancellor's arrangement of the salary of Vice President, the sum stated was £250 Will Dr McCaul hazard an explanation of the discrepancy?

But as the original Schedule of Salaries had been affectedly predicated on a severe analysis of the income, in adding £100 to one part of the expenditure, it became necessary to subtract a like amount from another, and therefore Dr McCaul modestly and ingeniously reduced the salary of the Professor of Law to £100—being £50 less than the salary of the Junior Clerk in the Bursar's Office Will Dr McCaul fairly estimate the value which the public attach to the talents, attainments and efficiency of the Professor of Law and the Professor of Literature respectively?

The Statute of Sir Charles Bagot, which was clandestinely intercepted and cancelled, predicated the salaries of the Medical Professors on a view of the duties attached to the corresponding Professors in the most eminent Medical Schools in Great Britain and in accordance therewith the late Chancellor pledged himself to these salaries when the appointments were made. The Statute transmitted to Sir Charles Metcalfe was framed with the view of adapting the expenditure to an intermediate job perpetrated by the Council, at a sacrifice to one Professor of £50, and to another of £150 yearly. Will Dr McCaul explain the circumstances attending the appointment of the Professor of Materia Medica? Will he explain the ineffectual attempt to cajole the Masters of Minor College into an approval of his conduct in a Memorial to the Chancellor, with a view to the union of the offices of Vice-President and Principal—his interference with the Statutes of the late Chancellor—the preparation of the present Statute and concealment of the former—his effecting the passing of a Statute to add £100 to his income, by getting the person through whose instrumentality he attempted to secure the apparent approbation of the Masters—the tool whom he all along affected to despise—foisted upon Upper Canada College, in violation of his own assurances to Sir Charles Bagot, that he was unworthy of the appointment? These and many other questions of a still more serious character, will assuredly have to be answered by Dr McCaul before the proper tribunal The time has long gone past when a person in his position could be permitted with impunity to trifle with the sacred rights of the people of Canada, or to use them as commodity for his private aggrandizement

CHAPTER VIII

THE UNIVERSITY BILL

The introduction of a Bill, during the last Session of Parliament, for the more efficient establishment and satisfactory government of the Collegiate Institutions of Upper Canada, was hailed with all but universal delight by the country Nor was the intensity of the gratification diminished by the consideration that a measure for the more liberal government of these Institutions had emanated from the Local Administration, and that the Bill had been framed by the Attorney-General for Upper Canada—whose enlightened principles of civil and religious freedom—perfect acquaintance with the condition of the country—and ardent sympathy with the feelings and wants of its population—afforded a guarantee for its thorough adaptation to the circumstances which had called loudly for its introduction

The objects of this Bill were thus recited in the Preamble —

"Whereas a University for the advancement of learning in that division of this

Province called Upper Canada, established upon principles calculated to conciliate the confidence and secure the support of all classes and denominations of the people, would, under the blessing of Divine Providence, greatly promote the best interests—religious, moral, and intellectual—of the people at large; and whereas, with a view to supply the want of such an Institution, his late Majesty King George the Fourth was graciously pleased by Royal Charter, tested at Westminster, the 15th day of March, in the Eighth Year of his Reign, to establish a College at Toronto, under the name of King's College, with the style and privileges of an University, and afterwards to endow the same with certain of the waste lands of the Crown; and whereas, with a like view, certain other Colleges and Collegiate Institutions have since then been established, in the same division of the Province—one at the same place, under the name of 'Upper Canada College,' endowed also out of the public lands; one at Kingston, under the name of 'The College of Regiopolis,' endowed by private means alone; another at the same place, under the name of 'Queen's College,' or 'The University at Kingston,' in like manner endowed by private means alone; and another at Cobourg, under the name of 'Victoria College,' endowed by private means assisted by a Parliamentary Grant—the two latter of such Colleges having likewise the style and privileges of Universities; and whereas the people of Upper Canada consist of several and various denominations of Christians, to the members of each of which, without distinction, it is desirable to extend the benefits of an University Education, and to maintain the just rights and privileges of all, without offence to the religious opinions of any, by leaving the teaching of Divinity and the education of the Clergy and Ministers of Religion to Collegiate Institutions incorporated into the University, but managed under their several Charters, in connection with the different Churches, or other religious bodies contemplated by their Founders, as declared in such Charters respectively; and whereas, by an act of the Provincial Parliament passed in the Seventh Year of the Reign of his late Majesty King William the Fourth, the Charter of the said first mentioned College was in certain particulars altered and amended in order, as the Preamble to the said Act recites, to meet the desire and circumstances of the Colony; and whereas, for the more complete accomplishment of these desirable objects, it is expedient to repeal the said Act, and to substitute some other provisions in lieu thereof, for the purpose of providing for the separate and more efficient exercise of the Collegiate and University functions of the said Institution; and whereas, with a view to the same objects, it is also expedient to alter and amend in several particulars certain other Acts of Parliament of this Province, referring to others of the said Colleges and Collegiate Institutions respectively, to incorporate such Institutions with the said University, and to transfer to and vest in such University the sole power of conferring Degrees in the several Arts and Faculties in Upper Canada, and to make some other provisions for the efficient establishment and satisfactory government of the said University: Be it therefore enacted, &c."

It was, of course, to be expected that a measure subversive of the designs of the High Church party in reference to the University should meet with considerable opposition, but singularly enough that opposition was confined to a minority of the College Council, and with the exception of a Memorial to the Legislature by the *Episcopal* Bishop of Toronto, and an argument by Counsel at the Bar of the House, on behalf of the Bishop and two of his clerical co-adjutors, not a murmur of dissent from the principle of the Bill proceeded from any part of the Province. And but for the singular events which abruptly terminated the Session, the Bill would unquestionably have become the law of the land.

The argument of the Hon. W. H. Draper, at the Bar of the Legislative Assembly, claims attentive consideration, not only on account of the eloquence and high legal attainments of the speaker, but as embodying all the reasons that could be effectively urged in support of the claims of the party whom he represented It would be supererogatory to follow the learned counsel in his objections to the details of a measure no longer before the country; but as there can be no compromise of the *principle* contained in the University Bill, in whatever shape it may again be submitted to the Legislature, it may not be improper to conclude this historical sketch with an examination of those constitutional questions affecting the prerogative of the Crown and the legitimate functions and powers of the Provincial Parliament, which formed so considerable a portion of Mr Draper's argument

As a question of constitutional law, the jurisdiction of Parliament in reference to the University Bill must necessarily be argued on the assumption that the powers and functions of the Provincial Parliament in local matters are co-ordinate with those of the British Legislature in matters affecting British interests For if this position be not conceded, the analogies and precedents, which Mr Draper has drawn and adduced from British practice, must fail in their application, where special rules for Colonial Government exist.

Assuming then that the Canadian Legislature has been endowed with powers, or rather that there are inherent in its constitution powers, corresponding with those exercised by the Legislature of England, what analogies and precedents are furnished by British practice for the two leading propositions which Mr Draper has laboured to establish? *First*, "that the Legislature cannot, without infringing on the prerogative of the Crown, erect a new Corporation with University powers and privileges;" and, *second*, "that it cannot (excepting as an act of will and power unsustained by reason or principle) deprive a Corporation of the rights and franchises which the Crown has legally granted to it, or in any way interfere with them without the consent of such Corporation "

The first of these propositions proceeds on an hypothesis—an assumed principle which Mr Draper has not attempted to prove—that the University Bill asks the Provincial Parliament to exercise a creative power by calling into existence a new University, with all the privileges, immunities, and rights, which usually belong to such corporations But the Bill assumes no such position It treats the University as pre-existent and actually in operation under a Royal Charter, and it not only invades no privilege or franchise formerly granted, but it actually gives such privileges and franchises further protection and extension by adapting them to an enlarged sphere of action. The Bill involves neither the destruction of one University, nor the creation of another—it merely provides for a union of the University privileges which had been previously granted by the Crown to separate Corporations, and, by the union and co-operation of powers and privileges, it attempts to infuse vigour into rival institutions, whose vitality had languished under a separation of interests. If therefore there be any privileges peculiar to Universities which it is the prerogative of the Crown alone to confer—privileges which are unknown to Statute, and independent of Parliamentary aid—their constitutional source has been amply recognised by the Bill

But no such privileges in relation to Universities are known to exist. Mr Draper has throughout his argument laboured to throw into the shade the creative power of Parliament in erecting corporations, and then by skilfully taking advantage of the obscurity in which the origin of the ancient English Universities is involved, he has attempted to draw an imaginary distinction between the corporate character of literary and of other civil corporations, for which no constitutional or legal analogy exists

That the crown has the power to erect corporations, and to endow them with privileges and franchises is undoubtedly correct—but Mr Draper, and not the law of England, has invested the Crown with the *peculiar* prerogative. Lord Coke lays it down that, "corporations may commence and be established three manner of ways, viz, by prescription, by letters patent, or *by act of Parliament*"—(1 Inst. 183,) and every institutional writer since his time has adopted the same enumeration Mr Justice Blackstone does indeed *state*, in the passage cited by Mr Draper, (after recognising the principle as enunciated by Lord Coke, but in terms still less favourable to an absolute or peculiar prerogative, for he merely requires as an ingredient the King's consent, either express or implied), that "it is observable, till of late years, most of those statutes which are usually cited as having created corporations, do either confirm such as have been before created by the King, as in the case of the College of Physicians erected by Charter, 10 Hen. VIII., which Charter was afterwards confirmed in Parliament, or they permit the King to erect a corporation *in futuro* with such and such powers, as is the case of the Bank of England, and the society of the British Fishery So that the immediate creative act was usually performed by the King alone, in virtue of his royal prerogative"—(1 Com 473) But the passage as thus partially quoted by Mr Draper contains merely an historical and not a legal qualification of the principle laid down in the first part of the sentence which the learned Counsel has omitted to quote, that "By Act of Parliament, of which the Royal assent is a necessary ingredient, corporations may undoubtedly be created." And the reason that *till of late years* the immediate creative act was *usually* performed by the King alone in virtue of the prerogative is to be found in the circumstance that in early times the nature and limits of Parliamentary jurisdiction as applicable to an infinite variety of circumstances, had not been defined with perfect precision, and that the facility of obtaining a Royal Charter was comparatively greater than by Statute On the other hand, before the sixteenth century, the prerogative was supposed to extend to every public case, and was accordingly exercised with an arbitrary disregard of those constitutional restrictions which render it wholesome to public liberty When Blackstone wrote, the powers of Parliament and the prerogatives of the Crown were both equally understood, and accordingly even that "very orthodox Judge"—as he is called by Gibbon, on account of his leaning to arbitrary power—claims for Parliament the *general* exercise of the power which, *till of late years*, was *usually* exercised by the Crown And since the passage was written the greater number of new Corporations have received their privileges by Parliamentary Statute, in which the "Royal assent is a necessary ingredient"

To withdraw the Universities from the ordinary operations of the law, the learned counsel finds it necessary to resort to an imaginary distinction between collegiate and other corporations. But the law admits of no such distinction among Institutions in their corporate capacity. Although in early times the Universities were considered to be ecclesiastical, they are now regarded strictly as lay corporations. (Lord Mansfield in Rex *vs* University of Cambridge.) In this character they seem to partake as well of the nature of civil as eleemosynary foundations—civil in respect of their machinery and government, and eleemosynary in reference to the tenure and administration of their Estate. In a question as to their constitutional modification they must necessarily be treated as civil corporations, and in this character Mr Draper regards them

The learned Counsel has wisely refrained from stating the specific privileges enjoyed by Universities which should withdraw them from Parliamentary jurisdiction. That Parliament should exercise a control over their purposes and objects as at least as clear as its undoubted right to control other civil corporations. That Parliament has no power to create learning or talent, may be applied with equal truth to the prerogative of the Crown; but that the power either of the Parliament or of the prerogative, may foster and encourage, and give direction to associations and institutions for the promotion of learning, is a matter of every day experience and practice

Now, the only privilege which distinguishes Universities from other literary and scientific institutions, is the power with which they are endowed of conferring degrees, which, it may be said, must flow from the Crown, as the fountain of honour. Assuming then that the University Bill really went the length of erecting a new corporation with University powers and privileges,—is the power of conferring degrees *ultra vires* of the Parliament?

It is very obvious that the assent of the Crown being a necessary ingredient in every legislative act—that assent obtained, the powers which would flow from the single exercise of the prerogative, must form a part of the privileges which it is the intention of the legislative measure to confer. But, although the power of granting degrees may be admitted to flow originally from the Crown, as by courtesy the fountain of honour, yet that power by no means forms a part of the prerogative. It may be delegated to a subject—it may proceed from foreign authority—it may spring spontaneously from, or it may be incidental to the subject matter of the institution which assumes the power. In the argument of Mr Attorney-General Yorke, in the case of Dr Bentley, he observed, "If the Crown erects a University, the power of conferring degrees is incident to the grant. Some old degrees the Universities have abrogated, some new they have erected." Now the general rule of law undoubtedly is, that where a subject matter is granted which has legal incidents belonging it, the incidents must follow the subject granted. The power of conferring degrees was therefore conferred on the Canadian Institution when the endowment was given and the Corporation created by Royal Charter. No parliamentary modification, which does not by express words deprive the Institution of that power, can affect its legitimate exercise; and the University Bill leaves this privilege unimpaired.

But even in the case of the English Universities, it cannot be maintained that the power of conferring degrees has, in every instance, flowed originally from the Crown; and as the application of Mr Draper's historical argument mainly relies for its strength on the obscurity in which the ancient history of these institutions is involved, it may be proper to inquire somewhat more minutely into their origin than it would have been prudent for him to have done.

In reference to their early origin and peculiar privileges, the Universities of England can scarcely be said to have come within the ordinary operations of English law. The word itself and the thing meant were of European consuetude and growth, and accordingly some of their privileges—such as that of the Vice Chancellor's Court, which is governed by the principles of the civil law—could only be conferred, or at all events must have been confirmed by statute, inasmuch as the Crown could neither confer nor confirm privileges which were inconsistent with the principles of the common law. The privileges attached to the Universities of Oxford and Cambridge seem to have been similar to those held by the Universities of Paris, Bologna, Salamanca, Louvain, and other ancient continental Universities. Their origin took place in circumstances common to them all, and their perfect similarity in early times, raises a strong presumption that they were all created in the same manner and by the same power.

The oldest Universities in Europe arose *spontaneously* during the twelfth and thirteenth centuries, and there can be still little doubt that they were all of ecclesiastical origin. The fame of eminent teachers, such as Irnerius at Bologna, and Abelard at Paris, attracted vast crowds of learners or students to the towns where the Schools were instituted. At first the immunities which these Schools enjoyed were merely of a local kind: they sought and had occasion for few peculiar public rights. Their growing importance, and the vast concourse of Students from all countries at length made it necessary for them to be possessed of summary powers of discipline and internal government, which were readily conferred by the local authorities, and the Papal and Royal powers would appear to have soon afterwards conceded the privileges which they had in the first place acquired from more limited authority. Grants had been executed in their favour by pious and charitable persons for the purpose of maintaining indigent Scholars, and these Grants were, with the privileges which the Universities had assumed or acquired, confirmed sometimes by Royal Charter, but more frequently by Bull. The Pope, indeed, at first arrogated to himself the right of vesting them with all their privileges; and prior to the Reformation, every University in Europe conferred its degrees in all the Faculties by authority derived from a Papal Bull. But after that event the Universities assumed to themselves the power of creating degrees. The University of Paris, as well as those of Oxford and Cambridge, existed at first only in the lay Faculty of Arts: the

Faculties of Divinity, Canon Law, and Medicine, were afterwards assumed by themselves.

If then the Universities of England have the power of creating or abrogating degrees at pleasure, what privileges exist which it is the peculiar prerogative of the Crown to create? Their civil law jurisdiction could only be exercised under the authority of statute, for if that privilege had been conferred by the Crown alone, it would have been tantamount to making new laws, which the Crown, as one branch of the Legislature, cannot do without the aid of an Act of Parliament; and again their right to the enjoyment of their property may have been, and actually was acquired by private grant or by prescription.

It is certain that the greater part of the property held by the English Universities was acquired from individuals, and in some instances the heirs of the founders, notwithstanding their Royal confirmation, still possess a visitorial power by virtue of the common law. Both at Oxford and Cambridge these establishments originally consisted of two distinct foundations—the University proper and the Colleges. The former was regarded as founded and privileged by public authority for the general benefit, while the latter were founded and privileged by private munificence for the interest of certain favoured individuals. The University proper existed prior to the Colleges, the former having been instituted for the purposes of education, and the latter principally for aliment and habitation. At Oxford and Cambridge at present the Universities may be said to be in abeyance, or at least to exist only through the Colleges; and this fact has afforded ground for argument to the High Church party in England against the admission of Dissenters, that the Colleges being foundations private to their incorporate members, the Legislature cannot deprive them of their right of optional exclusion, without a subversion of their constitution. But as admission to the Universities cannot be obtained without a previous entrance into one of the Colleges, the dethronement of the Universities and the usurpation of the Colleges have both been accomplished through an illegal suspension of some of the University privileges.*

---

* The peculiar constitution of the English Universities it is very important to keep in view, when an attempt is made to draw analogies unfavourable to parliamentary jurisdiction over the University of King's College in Canada. In an elaborate defence of Oxford, its privileges are thus stated:—"There are, moreover, some points in the constitution of this place, which are carefully left out of sight by its revilers, but which ought to be known and well considered before any comparison is made between what we are and what we ought to be. THE UNIVERSITY OF OXFORD IS NOT A NATIONAL INSTITUTION. It is a congeries of foundations, and originating, some in Royal munificence, *but more in private piety and bounty*. They are moulded indeed into one corporation; but each one of our twenty Colleges is a corporation by itself, and has its own peculiar statutes, not only regulating its internal affairs, but confining its benefits by a great variety of limitations."

The argument used by the High Church party in England, will, however, operate powerfully against that urged by Mr. Draper in Canada. In England, the jurisdiction of Parliament over the Universities has never been denied—its moral right to interfere with the Colleges which are private foundations has been questioned; and although a Bill for the admission of Dissenters has been passed in the House of Commons by a

That the English Universities have received Charters from the Crown, may be admitted, without vainly ascribing the foundation of Oxford to Alfred, or of Cambridge to an earlier Prince, as has been done by their respective partizans.* Edward I., we are aware, gave a Charter to the Universities, but this was merely a recital and confirmation of the Deeds of foundation previously given by private persons—who, notwithstanding the King's Charter, retained their visitorial powers as founders under the common law.

The power, indeed, which the Crown appears to have exercised in former times over the Universities was very considerable, and it certainly has not been sanctioned by constitutional authorities. In 1549 Edward VI. sent down by commission several visitors to Cambridge to alter and reform the statutes of some of the Colleges. This commission was issued, however, not upon the King's general visitorial power which he exercises by virtue of the common law over charitable foundations where no special visitor has been appointed by the founder, or where the right of visitation, in default of heirs, devolves upon the King, to be exercised by the Great Seal,—but proceeded strictly and was derived from his newly acquired spiritual jurisdiction established on the ruins of the papal authority in England. The power of visitation conferred on the Crown by 25 Henry VIII. was also purely of an ecclesiastical nature, and indeed was a mere transference of the power that had been claimed and exercised before that time by the Pope as Head of the Church. In those times Universities were considered to be ecclesiastical foundations, but both the doctrine and the power have since been exploded. The interference of Charles II. by Letters Missive was an act of arbitrary dispensation which cannot be supported at the present day.

When a proposal was made by William III. of a Royal visitation, Lord Chief Justice Holt denied the right of the Crown to interfere, and Lord Chief Justice Wilmot expressed an opinion at once adverse to the right of the Crown and favorable to Parliamentary jurisdiction. "I have long been a warm advocate for our Universities," said Lord Chief Justice Wilmot, "and for that reason, perhaps, have been too rigid and severe a disciplinarian; for their existence depends upon the activity and honor of the tutors and heads of houses; and whenever there was

---

large majority, yet, independently of other obstacles, the reluctance of the British Legislature to interfere with rights and privileges privately acquired, may readily account for its temporary defeat in the House of Lords. But in Canada the Endowment and the University are undoubtedly public, and may therefore properly be made the subject of legislation.

* The origin of the English Universities, as traced by the profound research of Mr. Hallam, would appear to be invested with even a deeper shade than that with which antiquity generally enshrouds the early history of literary institutions. "The earliest authentic mention of Cambridge as a place of learning, if I mistake not, is in Matthew Paris, who informs us that, in 1209, John having caused three Clerks of Oxford to be hanged on suspicion of murder, the whole body of scholars left that city, and emigrated, some to Cambridge, some to Reading, in order to carry on their studies. But it may be conjectured, with some probability, that they were led to a town so distant as Cambridge by the previous establishment of academical instruction in that place. The incorporation of Cambridge is in 1231 (15 Henry III.) so that there is no great difference in the legal antiquity of our two Universities."—*Hallam's Middle Ages*, Chap. 9, Part 2.

a total relaxation of discipline, if they either do not take care to know, or whenever they connive at idleness, *the Parliament must and ought to take the reformation of them in their own hands*, and attempt to rescue the rising generation from vice and ignorance by some new system of academical government.” Lord Mansfield, in the very case from which Mr Draper has quoted, admits that “the Crown did formerly exercise a power over the Universities which cannot be supported by any sound principles of law.”—(Rex v. University of Cambridge.)

Over all corporate property the Legislature has always exercised a high and special trusteeship; and the prerogative of the Crown is at the same time clearly defined by the common law as consisting in a visitorial power to see whether in the lapse of time the intentions of the founders have not been frustrated. Parliament and the Crown are alike entrusted with the power of erecting Corporations and giving them Charters; the only difference in the practice being in the change effected by the Revolution—that where the power of the Crown was formerly supposed to be sufficient of itself to meet all cases, the Royal authority must in certain circumstances be exercised legally and constitutionally through the medium of both Houses of the Legislature. There can be as little doubt of the power of the Crown, thus constitutionally exercised, to erect and found new Corporations, whether Universities or other civil foundations, as there can be of its constitutional exercise in the abrogation of such laws as have become unnecessary or inexpedient. But whenever a Charter has been confirmed or altered by the Legislature, whether that Charter was originally public or private, the power of the Crown alone is insufficient for its further modification, and hence the dictum of Lord Mansfield in referring to certain new grants which had been made by Queen Elizabeth to the University of Cambridge, subsequent to a Parliamentary interference, and which Mr Draper has twisted and triumphantly quoted for another purpose—that “the validity of these new Charters must turn upon the acceptance of the University.” That learned Judge, indeed, lays it down that the Crown alone cannot take away their rights or give them Statutes or Charters without their own voluntary acceptance,—as was the case between Charles I. and the University of Oxford,—but it may be doubted, notwithstanding the dictum of Lord Mansfield, whether the voluntary acceptance of new Charters by the Universities would not be illegal, and would not be tantamount to an alienation, which could only be effected by the aid of a Parliamentary Statute.

If, however, we are sent back to ancient usages—if we are referred to the wisdom and acts of our ancestors—we cannot doubt on historical grounds that Parliament has not only exercised the full and absolute power of interfering by legislative enactment with the practice and regulations of the Universities; but that the Universities of England are in fact great National Institutions, supported and maintained by acts of the Legislature—that their Charters, privileges and rights are secured by Acts of Parliament—that some of their highest advantages have been conferred on them by the same means—and that the most important right which they legally enjoy—the right of possessing that which formerly belonged to the Catholics—has been conferred by the very instrumentality which the Advocate of "the chartered rights" of King's College repudiates and condemns. In the reigns of Henry VIII., Edward VI., Mary, and Elizabeth, enquiries took place into the condition of the Universities by commission, and the result of each of the commissions was the alteration, by Parliamentary Statute, of the regulations and proceedings of the Colleges constituting the Universities. The Statute passed in 13th Elizabeth, upon which Mr *Drapes* has laid considerable stress as having been "framed by the authority of the Crown and probably introduced by the Ministers," was in fact the result of one of these commissions, and besides embodying the spirit of the *Statuta Antiqua*, or bye laws of the Universities, and of the various Acts of Parliament of the Reigns of Henry VIII., Edward VI., and Mary, which have always been regarded as the ancient constitution of the Universities, was also designed to effect various important alterations on their constitution, and was framed not merely with the view of protecting the government, but also of regulating the appropriation of the revenues of the several Colleges. But whether it was "framed by the authority of the Crown, or introduced by the Ministers," will probably little affect its validity at the present day.

The argument of the learned Counsel as applied to the Irish and Scottish Universities, is equally destitute of legal and historical accuracy. He has passed over Trinity College, Dublin, with the brief observation that it received its Charter from Elizabeth, but had he enquired further into the history of that Institution he would have discovered that it was pregnant with analogies and precedents for the modifications proposed by the University Bill. Passing over its early history,—even so recently as 1785 an Act of Parliament was passed to *establish* in Trinity College three additional professorships. And in 1793, an Act was framed by Mr Pitt, and was passed by the Irish Parliament for the purpose of modifying the University to an extent which was deemed as subverting its "Chartered Rights," and undermining its ancient constitution.

By ancient Statutes the Dissenters were admitted into the University of Dublin, without religious tests, but the Roman Catholics had been all along excluded from the offices and honours. Mr Pitt's Bill was intended to afford the Catholics considerable relief, and merely excluded them from the offices of Provost and Fellow. Two or three Catholics were accordingly, soon after the passing of the Act, admitted to Scholarships, but as the Statute did not in express words take away the oaths of supremacy and the declaration against the invocation of Saints, the Fellows have thought fit to enforce their being taken and subscribed on admission to Scholarship, and have thus prevented the Catholics from aspiring to that honour. The Statute was however passed by a Parliament, of which the Provost was a member, and the Representatives of the College were acquiescing parties. So far indeed as the University itself was concerned there was but one objection and no opposition—and that objection was made neither to the jurisdiction nor moral right of Parliament to legislate, but it was contended by the party who urged it that no Roman Catholic should in future be excluded from any of the offices or honours. The amendment was proposed by John Claudius Beresford

—a name of dreadful familiarity to Roman Catholic ears—and in the speech which he delivered on the occasion, he is reported to have said —"God forbid that I should ever see the pious intentions of the Royal Founders of the University frustrated by any perversion of the privileges or revenues thereof. If it be determined to open the Universities to Catholics, let the British Minister first procure an Act of Parliament to open the English Universities and then the bitter potion may be more readily swallowed by the infatuated and betrayed protestants of Ireland."

Mr. Draper has omitted any reference to the Roman Catholic College, at Maynooth, which was founded in 1795, *exclusively by an Act of Parliament.*

Nor is the learned Counsel more fortunate in his reference to the Scottish Universities. The University of St. Andrew's was founded by Henry Wardlaw, Bishop of the Diocese, in 1411, and was confirmed by Papal Bull, in 1413. The College of St. Salvator was founded by Bishop Kennedy, in 1456; that of St. Mary, by Archbishop James Beaton, in 1537; and that of St. Leonard in 1512. In 1747, the Colleges of St. Salvator and St. Leonard were united by Act of Parliament.*

The University of Glasgow was established in 1450, by Bull issued by Pope Nicholas V., and, it is worthy of remark, issued at the request of James II. More than one Act of Parliament has been passed in reference to this University.†

King's College, Old Aberdeen, was founded in 1494, by Bishop Elphinston, Lord Chancellor of Scotland in the Reign of James III., and Lord Privy Seal in that of James IV. The King afterwards claimed the patronage of the College. Marischal College, New Aberdeen, was founded after the establishment of Protestantism in Scotland, by William Earl of Marischal, and its deed of foundation was confirmed by Act of Parliament within three months after its execution.‡

The University of Edinburgh was founded by the citizens who obtained a license

from James VI for founding a College within the city In 1621, an Act of Parliament was passed ratifying its various grants, and among other things *authorising the University to confer Degrees* *

---

* "The University of St. Andrew's," says Malden, "was founded by Henry Wardlaw, Bishop of the Diocese, in 1411. The King James I. of Scotland, the Bishop, and the Heads of the Augustinian Priory at St. Andrews requested the Papal sanction, and accordingly a Bull was issued in 1413, by Benedict XIII., by which it was made a University, and a general study for all the Faculties. It received other benefactions from the Church, which were ratified by the King in 1432, and he, at the same time, granted to all its members an exemption from taxes—a privilege confirmed by his successors."

† "The University of Glasgow was established in 1450, by a Bull of Pope Nicholas V., issued at the request of James II.—Authority was given for the institution of the general study of all Faculties, and the University was empowered to grant Degrees, which should be valid throughout Christendom. In 1453, a Royal Charter was granted by James II., with an exemption from taxes and all civil burthens."—*Ibid.*

‡ "Marischal College, in New Aberdeen, which claims to be a separate University, was founded in 1593. The Founder, William Earl of Marischal, directed the Principal to confer the Degree of Master of Arts upon Students who deserved it; and, as the deed of foundation has been confirmed by more than one Act of Parliament, the College is an authorized University."—*Ibid.*

Mr Draper's reference to the Scottish Universities thus completely fails Not one of these Institutions owed its foundation to Royal Charter, but they were all founded and created by private grant by Papal Bull or by Act of Parliament All the Scottish Universities were re-modelled under the auspices of Buchanan, at the time of the Reformation, so as to adapt them to the immediate wants of the community In the course of the last century Faculties of Medicine and Law have developed themselves, and in 1826-27, a commission of inquiry was set on foot, the result of which has been the adoption of many practical reforms and useful alterations in these Establishments †

---

* In 1581, the citizens of Edinburgh obtained a license from James VI for founding a College within the city; and in 1582 aided by various donations, they procured a suitable site for it. The Provost and Town Council were empowered to repair and build houses for the reception and habitation of Professors. The Town Council proceeded to act upon this license, and opened an academy at first under a single Regent, augmenting the number of teachers from time to time, according to the increase in the number of Students. In 1584, the King granted property not to the College, but to the Magistrates and Town Council for the benefit of the College and in 1612 he gave a Charter confirming all that they had done. In 1621, an Act of Parliament was passed, ratifying the Royal Endowments, and the erection of the College, as a College for the profession of theology, philosophy, and humanity, and granting in 'favour of the burgh of Edinburgh, patron of the said College, and of the regents and students in the same, *all the liberties and privileges pertaining to any College within the realm.*' On this authority it is that the University confers Degrees. The College is in every respect subject to the Magistrates and Town Council of Edinburgh. No constitution was given to it like those of other Universities. The Town Council are the absolute patrons of the Professorships of their own Institution, and of the office of Principal. The College consists at present of twenty six Professors, of whom twelve are appointed by the Town Council, and eight are appointed by the Crown. The Professor of Botany holds commissions under both. The remaining five are of a mixed nature but the Town Council has a voice in all. The Senatus Academicus consists of the Principal and all the Professors. This body is not legally constituted by any of the original deeds, but takes upon itself to act only by usage. By the entire subjection of the University of Edinburgh to the Town-Council, the Professors are relieved from all care of the financial concerns, and of the lands and buildings. It might be supposed antecedently to experience, that such matters would not be well managed by bodies of literary men; and the experience of the other Universities, developed in the Report of the Royal Commission of Inquiry into the state of the Universities of Scotland, amply confirms the supposition. The Council not only fills the vacant chairs, and thus preserves the University from the abuses of a self-elected corporation, but it can at any time institute any new professorship which it thinks to be for the advantage of science and general education; nor can the existing Professors maintain any monopoly of teaching, or close their society against the new member. The Council has the discretion to leave all matters of discipline and ordinary detail to the Principal and Professors, while by its superintending power it can check any such practices as self-governed corporations are apt to fall into, tending to the present benefit of the individual members rather than to the permanent benefit of the whole body.

† The Scottish Commissioners were empowered to enquire into the mode of granting Degrees and of teaching, and were directed "to look narrowly into the revenues of the said Universities and the management thereof." Nor did the Scottish Commissioners protect the donations of pious founders. It was one of the

The reference to the University of Durham, and the London University, is not strictly applicable These Universities are privileged by Royal Charter, but it is inaccurate to say that from this source they derive their existence Both Universities are strictly private foundations, and on account of the tolerant principles upon which they were established—they were assailed with rancorous virulence by the Academic pulpits The characters and motives of their founders were maligned and their objects misrepresented in every shape that High Church ingenuity could devise, and with the determined and cordial opposition of the Bishops the passing of an Act for their Incorporation would have been a hopeless attempt But the reference to these Universities neither strengthens the one case, nor weakens the other That the Crown has power to incorporate a University, or other civil Institution, may be admitted without admitting an infringement on the right of Parliament to do the same.

In the two instances cited by Mr Draper from Canadian experience, unwarrantable inferences have been drawn from the facts He says—"The University of Queen's College at Kingston is founded by Royal Charter the Act of the Legislature erecting it having been disallowed" But the Act of the Legislature was disallowed *on the application of the Trustees of Queen's College*, which is strictly a private foundation —not for the purpose of changing its constitution or powers—not because it had been discovered that Parliament had no right to legislate—but in order that the University might undergo a change in its name, and that it might occupy a place in public estimation not inferior to the exclusive University of King's College, from the privileges of which the Presbyterians had been unjustly debarred Upper Canada Academy, now Victoria College, was incorporated by Royal Charter, in 1836 and was afterwards, *by Act of the Colonial Legislature* erected into a College, with University privileges and powers The application for a Royal Charter in the first instance, was occasioned, not by any doubts of the powers and functions of the Canadian Parliament, but solely by local circumstances, which shut out for a time every reasonable prospect of obtaining an Act of Incorporation and Lord Glenelg then Colonial Secretary, acting under the advice of English Counsel, hesitated as to the propriety of a Royal Charter, on the ground that "the Crown ought not to create any Corporation in the Colony that it was competent to the Legislature to create" The Charter for the incorporation of the Academy was only obtained after assurance had been given to the Colonial Secretary, that the Institution was in harmony with the views of the House of Assembly

If then the question of University Reform depends upon historical and legal precedent, the Canadian Legislature can scarcely hesitate to exercise those powers which have been constitutionally vested in the respective Parliaments of England, of Ireland, and of Scotland, which exist in supreme majesty in the Parliament of

---

subjects of special interest that an enquiry should be made into the ancient donations or mortifications as they are called in the Scotch Law The Commissioners had also power, to enquire into elections, and power was given them to frame a Code of Laws and Regulations for all the Universities.

the United Kingdom of Great Britain and Ireland, and which have been expressly recognised by the Imperial Government as existing in the Colonial Legislature, with the fullest application to the establishment in question.

It surely cannot admit of doubt, that a power must exist in the constitution to adapt laws to the ever varying wants and circumstances which the moral and physical elements of which society is composed are ever producing. If it be beyond the power of the Crown to interfere with an Institution which has already been made the subject of parliamentary legislation, are its defects, its corruptions, and injurious tendencies at once to receive constitutional protection, and to escape from constitutional control? As there is a moral duty, so there is an inherent power on the part of a government to make the laws of a country conducive to the happiness of its inhabitants, and no law can be properly maintained either after its object has ceased to exist, or after it has become positively injurious. As society is progressive, so the laws which govern it must be adapted to the changes to which it is exposed.

The right of parliamentary legislation over every other branch of the constitution is recognised and proved in every page of the history of England. The attempt would scarcely succeed at the present day to set up divine right, legitimacy, and prescription against the necessities which new interests and new opinions have created. If the acknowledgment was wrung from Charles I. that "the King's prerogative is but to defend the people's liberties," it is scarcely to be denied that the people, through their representatives, are the proper judges whether it should be restrained when it proves hurtful. "My Lords," said Holborne in his noble defence of Hampden, "whatever estate is in the King in the politic capacity, is in him as rex, and not in him in his natural capacity; and what is in him so is for the benefit of the kingdom."

But how idle it must be to argue the constitutional right of parliamentary control over a civil corporation in a country which has received a transcript of the British Constitution, and among a people who inherit from their fathers the noble legacy of England's history and laws. We have but to point to the maxim on which the succession to the Throne of England depends to find that "the right of inheritance therein may from time to time be changed or limited by Act of Parliament" (1 *Black.* 191), and to the instances in which that right has been exercised, to be satisfied that when a moral necessity for change may arise, the power to effect it will be found to exist in the Legislature.

"A legislative Act," said Mr. Burke in his argument on the Middlesex election, on the occasion of the expulsion of Mr. Wilkes from the House of Commons by a simple resolution, "a legislative Act has no reference to any rule but these two—original justice and discretionary application. Therefore it can give rights, rights where no rights existed before, and it can take away rights where they were before established. For the law that binds all others, does not, and cannot bind the law-maker; he and he alone is above the law." The ultimate power and jurisdiction being thus ascertained to exist in the Parliament, it would be difficult to discover any higher or stronger obligation on the consciences of legislators than the consideration of the public benefit, and therefore in reference to the modifications of a public endowment, the questions that require to be satisfactorily answered, previous to parliamentary interference, are simply,—is the present system expedient? and have the Trustees discharged their trust with fidelity?

The real question, then, before the people of Canada is the expediency—the moral necessity of a change in the present system. And if at a particular period of the history of Canada, when an Episcopal ascendancy was paramount in the Councils of the country, it was deemed expedient to appropriate and set apart a magnificent endowment for educational purposes, and to place that endowment and the direction of education exclusively under Episcopal control, will it be maintained, when the country has, from a diversity of causes, become divided into many religious communities, each community being in the enjoyment of perfect equality in civil and religious privileges, that every advantage from the endowment shall be confined to the Episcopal members of the community, who now form one of the least of the variety of sections—that the privileges attached to the University must be perpetuated for the sole benefit of the original class, and that new aspirants to civil privileges are to be refused a partnership in public rights, either on the ground that their interests were not at one period contemplated and recognised, or that the monopolists refuse their consent to a participation? If the University was intended to be a National Institution, can we look at the numbers, the rank, the wealth, the character and intelligence of those who are excluded under the present illegal system, and say that it is *expedient* to deprive so large and influential a portion of the community of the benefits of a University education—that it is just or expedient to expose them to the feeling that they are ill used by the laws of their country by being precluded from the enjoyment of benefits which are open to others by the illegal regulations of any particular Establishment? What is the principle involved but the right of every man to religious freedom and liberty of conscience—a right which none dare publicly to controvert, but which the Trustees of King's College have dared to infringe by a secret violation of the law? Is it not enough to prove that the Institution only accomplishes a small part of the purposes for which it was established by law, to shew the propriety and necessity of giving it more enlarged and national usefulness? And is it of no importance to the interests of the country that persons differing in their religious opinions, but agreeing on other subjects, should not be estranged from each other on the ground of creed—that instead of imbibing those principles of tolerance and those feelings of Christian charity which a joint system of education would produce, a spirit of hostility should be engendered, by the influence of which they must become more estranged from each other in their literary and scientific pursuits? Can it be expected that the youth, who have been confined, during the progress of their education, in the choice of their associates, to a particular Church will be easily brought to believe, in their riper years, that the Christian virtues and graces flourish and are equally diffused among Christians of all denominations? But, on the other hand, by a combined system of education—by the ties of affection and good will, which would be fostered, even the intolerant denunciations of their respective Churches, which are the relics of other ages, when parties were brought into collision in the struggle for their civil rights, and for religious ascendancy, would lose all the power which they would otherwise have in perpetuating that negative species of persecution, which robs social life of its cordialities, and invests a public career with half its animosity and bitterness.

Nor will any remedy less solemn than a declaration by Parliament of the equal rights of all denominations to a full participation in the advantages of the Institution, meet the exigency of the case, or restore public confidence in the Institution, or satisfy the country. Were the Amended Charter complete in its details, and were the complaint confined to a mere perversion of trust, the remedy—whether consisting in the restoration of the trust purposes, or in the punishment or removal of the Trustees—might be found in an inferior judicatory. But it must be recollected that the law—notwithstanding its recognition of the principle of equality,—was conceded and framed by the party favourable to exclusion, and at a political crisis when the best friends of education were unrepresented in the Legislature, and that its gross and glaring defects are such as to render it in many respects useless and inoperative. The law must be so framed as to prevent a corrupt administration—and, when badly administered, it becomes the duty of Parliament to remedy those defects, which have exposed it to perversion. The principle of equality, as already recognised, must be guarded by practical and efficacious rules and checks, to secure its healthy operation. And it is no less the duty of the Legislature to watch with a vigilant eye, the spirit of the age and adapt its measures to the changes produced by time, than to exercise a strict surveillance over the administration of the laws, so as to protect their principles from corruption or perversion. Nor does the existence of a subordinate judicatory for enforcing the proper administration of the laws, deprive the Parliament of its judicial adaptation to the least as well as the greatest objects. Its powers and functions, as the supreme tribunal in the State, are applicable, to all circumstances, whether in declaring the meaning of the law with greater precision, or in correcting those mistakes which have occasioned either misconception of intention or corrupt administration.

The argument of the learned counsel assumes that the Bill "proposes to interfere with and take away privileges, liberties, and franchises, which the Crown has solemnly granted under the great seal of the Empire." But what "privilege, liberty or franchise," was enjoyed by the University which was not largely extended by the Bill? No part of the corporation was changed but its name—and what is more common than for a corporation to change its name and retain its powers, rights and privileges? The objects and purposes and subject matter of the corporation remained the same, but an extension of its advantages was proposed by the modification and adjustment of its machinery. It is absurd to talk of disfranchising a corporation, when every end of its existence is clearly recognised, and every power which it holds is legally maintained

Now, the UNIVERSITY, as a corporation, was preserved in all its integrity, and in the unimpaired possession of its "privileges, liberties and franchises." The other Colleges asked for no separate lands, no distinct franchises—they did not even aspire to participation in University privileges, for they surrendered those which they held—they asked no extension of their charters—no new powers which were adverse to the rights already established—all that they asked, and all that the Bill proposed to give them was that their students might have the privilege of attending the Lectures in Arts and Sciences established out of a public endowment, and that that endowment might be so administered that such privilege should be enjoyed without offence to their conscientious convictions. The separate Colleges in the Universities of England have been endowed and privileged by private individuals Surely that which has been done legally in England by the piety or munificence of individuals, may be constitutionally accomplished in Canada, without stretching, to an undue degree, the jurisdiction of the Parliament

But the argument of disfranchisement can be maintained with little either of grace or effect by the person who framed and introduced the amended law, which recognised to the fullest extent, the very principle which it is the object of the present Bill to reduce more thoroughly to practice By the introduction of the Amended Charter, Mr Draper, as a legislator, gave his solemn sanction and personal approval of the principle which Mr Draper, as of Counsel for the Trustees of King's College, afterwards called upon the Commons of Canada in the name of their God, their Queen, and their Country, to condemn Was not the sole object of the Amended Charter to deprive the Episcopal Church of the *exclusive enjoyment* of University "privileges, liberties, and franchises?" Did it not expressly recognise the equal rights of all denominations of Trinitarian Christians to an unconditional participation in those privileges, liberties, and franchises, and have not the Trustees of King's College fraudulently disfranchised the people of Canada of the "privileges, liberties and franchises" which Mr Draper's own Statute conferred upon them? And, moreover, did not Mr Draper's Amended Statute, to the fullest extent, recognise the power and jurisdiction which as an advocate he affects to repudiate? True it is that the Crown gave its sanction to the amendments—true it is that the Crown "*invited* the attention of the Legislature to the improvement of the Charter" But will the invitation of the Crown invest the Legislature with power and jurisdiction which are not inherent in its constitution? Must the validity of Acts of Parliament be tested by dragging from grim and musty obscurity uncertain evidence of their having been "framed by the Crown," or of having been "probably introduced by the Ministers"—or if the invitation of the Crown invests the Parliament with its 'omnipotence,' is the Despatch of a Colonial Secretary to work the charm which the Bill of an Attorney General is impotent to produce!

But in what character do the Council of King's College appear at the Bar of

the Legislature to protest against a measure for the modification of a public endowment? If the Council of King's College have been invested with franchises, they are of a public nature, and they as well as the endowment to which they are attached, are held in trust for the benefit of the whole community. There is an obvious distinction between private property vested in individuals as such, and property vested in individuals in the character of public Trustees, and therefore held by them only for the public benefit. There can be no claim on behalf of these Trustees in their own persons, for the University was erected into a Corporation purely for public purposes. Now a Corporation is an ideal being—a legal fiction—an incorporeal shadow endowed with vitality and power solely by the creation of the law for the purpose of holding rights in trust for the public interest. If any of its Trustees are in the enjoyment of a life-rent, there is to that extent a personal right, but otherwise there is simply a Trust which must be held and exercised for the public benefit.

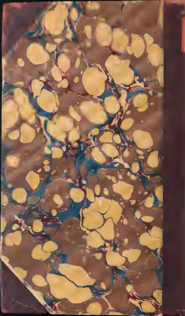
But as all Trusteeship pre-supposes confidence between the parties, when that confidence is lost, the office of Trustee may be recalled. For the Trustee can have no personal interest in the estate in virtue of his office, and therefore the interest is solely in the parties for whose benefit it is held. In the present instance the beneficiary right is vested in the public, who must therefore be possessed of the power to remove their Trustees. The resumption of the endowment would in fact be nothing more than the removal of the Trustees, even were that endowment to be applied to other than Academical purposes.

The distinction between the right to private property vested in individuals either personally or as Trustees (or as in the case of the Collegiate Institutions of Lower Canada, which are expressly endowed, not for national, but for Roman Catholic purposes, and in that character are guaranteed by the faith of the Empire), and property vested in individuals in the character of public Trustees will always be recognised by the Legislature. Parliament has the power—and it occasionally exercises the right of interference with either; but on private property it will seldom legislate, unless where its existence or purposes are positively injurious—or when it is taken collectively, as in case of Parliamentary taxation—while over public and corporate property it exercises a special trusteeship as to its management and direction. And if it be convenient for the Parliament to recall or limit a public trust, are the Trustees to be entitled to say that they ought to keep it for their own purposes? Is a public reformation not to be accomplished without bribing certain Trustees into connivance? Or does it follow that the Parliament are necessarily doing violence to adverse claims and titles, simply because certain Trustees have not come voluntarily forward to surrender a public trust which they have scandalously perverted?

The learned Counsel must have internally smiled at the idea of alarming the fears of the Legislature with an argument which he would not have ventured to use in a far inferior Judicatory. If the obstinate resistance of the corrupt Council of King's College is to impede the progress of Parliamentary legislation what ought to have been the effect of a remonstrance from the ancient Burghs of Sarum and

Gatton on the course of English Parliamentary Reform? And if a Parliament could be found base enough to disregard the protest of the Brethern of Laud against all acts passed in their absence as being the acts of a Parliament no longer free, what amount of temerity will resist "the Memorial of John, by Divine Permission, Bishop of Toronto"?—Alas! we fear such is the arbitrary power now vested in and exercised by our Parliaments that the validity of their acts will scarcely admit of a question, even though the whole Bench of Bishops should record their dissent—or even, as in the case of the Act of Uniformity, the very name of the Lords Spiritual should be dropped from every part of the Bill. If the only opponents of a legislative measure are the unfaithful stewards who have betrayed their trust what better argument could there exist for the legal and moral necessity of a change?

The betrayal of trust and subversion of the law by the College Council, deprive Mr. Draper's argument of even the appearance of plausibility. The contest is not one between the people of Canada and the vested rights of the College Council—but between a corrupt Council and the vested rights of the people. All those "privileges, rights and franchises," for which Mr. Draper has so eloquently contended, were vested in the community; the College Council have, in violation of the law, perverted them to private purposes and have had the effrontery to appear at the Bar of the Commons in defence of a contraband traffic with a public endowment. Those who talk of vested rights being invaded or infringed by the University Bill, should look at the original grant—its fraudulent appropriation—the deceptions practised in obtaining the Charter—the long and arduous struggles by the people to reclaim their birthright—the supposed termination of those struggles in the Legislative Act restoring the endowment to its legitimate purposes—and the defeat of those purposes by parties who have neither the capacity nor the integrity—neither the ability nor the inclination to promote any public good. If the system at present in operation were carried on under the sanction of a law, however inexpedient—it might in some respects be defensible as a right—but carried on as it is under a a flagrant violation of positive law and on the strength of a usurped power it calls for immediate alteration as subversive of the legal constitution of the Establishment, and inimical to the interests of the country.



[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

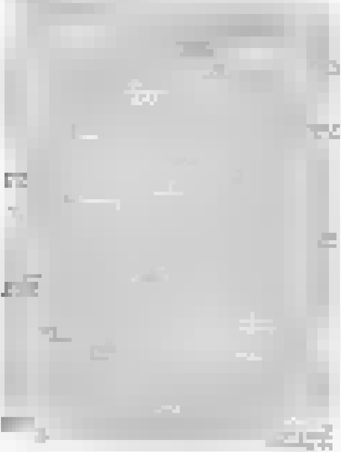
[illegible]

[illegible]

[illegible]

[illegible]

[illegible]



[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]